

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

IN RESPONSE

To Senate resolution of April 11, 1892, relative to the agreement between the United States and Great Britain concerning the naval forces to be maintained on the Great Lakes.

DECEMBER 7, 1892.—Read, referred to the Committee on Foreign Relations, and ordered to be printed.

To the SENATE:

In response to the resolution of the Senate of April 11, 1892, requesting information in regard to the agreement between the United States and Great Britain of 1817, concerning the naval forces to be maintained by the two Governments on the Great Lakes, I transmit herewith a report of the Secretary of State and accompanying papers giving all the information existing in that Department in regard to the agreement in question.

BENJ. HARRISON.

EXECUTIVE MANSION,
December 7, 1892.

To the PRESIDENT:

The Secretary of State, to whom was communicated a resolution adopted on the 11th of April, 1892, by the Senate of the United States, in the following words:

Resolved, That the Secretary of State be, and he is hereby, directed to inform the Senate whether the agreement entered into between the United States and Great Britain in the year eighteen hundred and seventeen, covering the question of the naval force to be maintained by the two governments on the Great Lakes of the United States, is now held to be in force by the Department of State, and what, if any, action has been taken by our Government to revive or put in force the terms of said agreement, and if so, under what authority or action on the part of our Government such agreement has been held to be in force since the giving of the required formal notice by the President to Great Britain in December, eighteen hundred and sixty-four, of a desire on the part of the United States to annul said agreement at the expiration of the six months from the date of said formal notice, and the ratification of said notice by the act of Congress of February ninth, eighteen hundred and sixty-five,

has the honor to submit to the President a report in response to said resolution, in order that it may be laid before the Senate, should the President deem it not incompatible with public interests so to do.

A statement of the circumstances preceding and attending the negotiation of the agreement of April 28-29, 1817, seems proper to the fuller understanding of the questions presented:

I.

After the restoration of peace between the United States and Great Britain by the treaty of Ghent, in 1814, several dangerous sources of disagreement between the two countries were found to exist in the restlessness and even hostile spirit of the Indians on the frontier, in the unneighborly conduct of the British officers in Canada, in the impressment of seamen, in commercial intercourse, in the enjoyment of common rights of fishery on the Nova Scotian and Newfoundland coasts, and in the maintenance by Great Britain of an excessive armament on the Great Lakes. All of these matters were the occasion of frequent instructions by Mr. Monroe, then Secretary of State, to Mr. John Quincy Adams, minister to London, looking to their adjustment by conventional arrangements. The subjects being associated and discussed together, the references to the question of the armament on the lakes and its restriction in the common interest of the two countries are for the most part incidental to the general negotiation for the regulation of the rights of fishing, which had then assumed an overshadowing importance. The present report will aim to separate the discussion of the question of the naval armaments and exhibit it in connected sequence, so far as the records will permit.

The first reference to the matter appears to have been made during the summer of 1815, when Mr. Adams, under date of August 29, transmitted to the Department of State some British newspapers in which it was announced that His Majesty's cabinet had determined not only to maintain but to augment its armed naval force on the Great Lakes. Mr. Monroe thereupon proposed a mutual restriction of the naval force to be maintained on the lakes by both parties, in an instruction addressed to Mr. Adams, dated November 16, 1815, as follows:

[Mr. Monroe to Mr. Adams, November 16, 1815.]

The information you give of orders having been issued by the British Government to increase its naval force on the lakes is confirmed by intelligence from that quarter of measures having been actually adopted for the purpose. It is evident, if each party augments its force there, with a view to obtain the ascendancy over the other, that vast expense will be incurred and the danger of collision augmented in like degree. The President is sincerely desirous to prevent an evil which it is presumed is equally to be deprecated by both governments. He therefore authorizes you to propose to the British Government such an arrangement respecting the naval force to be kept on the lakes by both governments as will demonstrate their pacific policy and secure their peace. He is willing to confine it, on each side, to a certain moderate number of armed vessels, and the smaller the number the more agreeable to him; or to abstain altogether from an armed force beyond that used for revenue. You will bring this subject under the consideration of the British Government immediately after the receipt of this letter.

In a conference with Lord Castlereagh on January 25, 1816, Mr. Adams submitted the proposal and briefly mentioned having done so in a dispatch written to Mr. Monroe January 31, 1816, in which he said:

[Mr. Adams to Mr. Monroe, January 31, 1816.]

With regard to the other topics embraced in the conference, I can only now state in a summary manner that I think the proposal for mutually disarming on the lakes or Canada, which I made conformably to your instructions, will not be accepted.

On the 8th of February, however, Mr. Adams wrote to Mr. Monroe more fully, reporting his presentation of the proposal and the views of Lord Castlereagh thereon, as follows:

[Mr. Adams to Mr. Monroe, February 8, 1816.]

By way of introduction to the proposals which I was instructed to make to this Government, in relation to the naval armaments on the Canadian Lakes, I observed to Lord Castlereagh, at the conference with him on the 25th ultimo, that next to the subject of seamen and impressment the most dangerous source of disagreement between the two countries arose in Canada. It had occasioned much mutual ill will heretofore, and might give rise to great and frequent animosities hereafter, unless guarded against by the vigilance, firmness, and decidedly pacific dispositions of the two governments; that there were continual tendencies to bad neighborhood and even to acts of hostility in that quarter, proceeding from three distinct causes, the Indians, the temper of the British local authorities, and the British armament on the lakes.

* * * * *

But the most important circumstance was the increase of the British armaments upon the Canadian lakes since the peace. Such armaments on one side rendered similar and counter armaments on the other indispensable. Both governments would thus be subjected to heavy, and in time of peace, useless expenses; and every additional armament would create new and very dangerous incitements to mutual irritation and acts of hostility. That the American Government, anxious above all for the preservation of peace, had authorized me to propose a reduction of the armaments upon the lakes on both sides. The extent of this reduction the President left at the pleasure of Great Britain, observing that the greater it would be the more it would conform to his preference, and that it would best of all suit the United States if the armaments should be confined to what is necessary for the protection of the revenue. Lord Castlereagh admitted that the proposal was perfectly fair, and assured me that so far as it manifested pacific and amicable dispositions it would meet with the sincerest reciprocal dispositions on the part of this Government. He inquired if it was meant to include in this proposition the destruction of the armed vessels already existing there. I answered that as it was not so expressed in my instructions, I did not understand them to include that; but if the principle should be acceptable to Great Britain, there would be ample time to consult the American Government with regard to details. The immediate agreement which I was directed to propose was that there should be no new armament on either side. He replied that, as to keeping a number of armed vessels parading about upon the lakes in time of peace, it would be ridiculous and absurd. There could be no motive for it, and everything beyond what should be necessary to guard against smuggling would be calculated only to produce mischief; that he would submit the proposal to the consideration of His Majesty's Government. But we were aware that Great Britain was on that point the weaker party, and therefore it was that she had proposed at the negotiation of Ghent that the whole of the lakes, including the shores, should belong to one party. In that case there would have been a large and wide natural separation between the two territories, and there would have been no necessity for armaments.

He expressed a strong predilection in favor of such broad natural boundaries, and appeared to consider the necessity for Great Britain to keep up considerable naval force on her side of the lakes as resulting from the objections made on the part of the United States to the expedient for preserving the future peace between the two countries proposed by Great Britain upon that occasion. He said that just before the conclusion of the peace Great Britain had been under the necessity of making extraordinary exertions and to build a number of new vessels upon the lakes to enable her to maintain her footing there; and when I remarked that this was not what had drawn the animadversion of the American Government, but the new armaments—vessels of war begun and built since the peace—he replied that we had so much the advantage over them there by our position that a mutual stipulation against arming, during the peace, would be unequal and disadvantageous in its operation to Great Britain. For as the hands of both parties would by such an engagement be tied until war should have commenced, the Americans by their proximity would be able to prepare armaments for attack much sooner than those of the British could be prepared for defense. I urged that as at all events the state of the armaments during peace, on one side, must be the measure of those on the other, this advantage of proximity must be nearly the same whether they are great or small; that the agreement to forbear arming in time of peace would rather diminish than add to it, and that a war could not break out, on the part of the United States, suddenly or without such a previous state of the relations between the two

nations as would give the British Government warning to be prepared for the event and to take such measures as might enable them to arm on the lakes when the war commenced quite as rapidly and effectually as the United States could do on their side. But although Lord Castlereagh promised to submit the proposal to the cabinet, his own disinclination to accede to it was so strongly marked that I can not flatter myself it will be accepted. The utmost that they may be induced to consent to may be an arrangement to limit the force which either party shall keep in actual service upon the lakes.

With his dispatch No. 36 of March 22, 1816, Mr. Adams sent a copy of a note addressed by him, under date of March 21, to Lord Castlereagh concerning several pending questions, and said: "I have repeated the proposal for disarming on the lakes, but without hopes of success." In that note to the British secretary of foreign affairs Mr. Adams said:

[Mr. Adams to Viscount Castlereagh, March 21, 1816.]

On this occasion the undersigned begs leave to remind Lord Castlereagh of the proposition which, by instruction from the American Government, he had the honor of making to his lordship on the 25th of January last, relative to naval armaments upon the North American lakes. It is the sincere wish and, so far as depends upon them, the determined intention of the American Government, that the peace so happily restored between the two countries should be cemented by every suitable measure of conciliation and by that mutual reliance upon good faith far better adapted to the maintenance of national harmony than the jealous and exasperating defiance of complete armor. The undersigned mentioned to his lordship the incident of an American merchant vessel having been fired upon by a British armed vessel upon Lake Erie. The increase of naval armaments on one side upon the lakes, during peace, will necessitate the like increase on the other, and besides causing an aggravation of useless expense to both parties must operate as a continual stimulus of suspicion and of ill will upon the inhabitants and local authorities of the borders against those of their neighbors. The moral and political tendency of such a system must be to war and not to peace. The American Government proposes mutually to reduce, to the same extent, all naval armaments upon those lakes. The degree to which they shall be reduced is left at the option of Great Britain. The greater the reduction, the more acceptable it will be to the President of the United States; and most acceptable of all, should it be agreed to maintain, on either side, during the peace, no other force than such as may be necessary for the collection of the revenue.

In submitting again this proposal to the consideration of His Majesty's Government the undersigned will not merely ask for a return to that frank and unsuspecting confidence in which it originated and of which it is the proof. If it be fitting that the maxims of a more guarded and cautious policy should also be called to share in the deliberation he will request Lord Castlereagh to bear in mind that the whole military peace establishment of the United States scarcely equals the number of troops intended to be maintained by Great Britain in the colonies of Nova Scotia and Canada alone, and that no act of offensive hostility against any foreign nation can be authorized by the Executive of the United States without the sanction of a previous act of Congress, in whom alone is vested by the Constitution the power of declaring war. With these securities against the possibility of a sudden or unforeseen attack from the United States upon the British North American colonies, added to those which Great Britain must derive from the great superiority of the British power upon the ocean, and from the removal of all the real and even of the principal of the apprehended causes of the late unhappy contest between the two nations, the undersigned may confidently hope that this proposal mutually and equally to disarm upon the American lakes will be received and entertained in the same spirit in which it was made, as a pledge of intentions sincerely friendly and earnestly bent upon the permanent preservation of peace.

Nine days later Mr. Adams, under date of March 30, 1816, wrote to Mr. Monroe as follows:

[Mr. Adams to Mr. Monroe, March 30, 1816.]

Lord Castlereagh has not yet replied to any other of my late notes. You may, however consider it as certain that the proposal to disarm upon the lakes will not be accepted. In all the late debates in Parliament upon what they *call* their Military and Naval Peace Establishment the prospect of a new war with the United States has been distinctly held up by the ministers and admitted by the opposition as a solid reason for enormous and unparalleled expenditure and preparation in Canada and

Nova Scotia. We hear nothing now about the five fir frigates and the bits of striped bunting. The strain is in a higher mood. Lord Castlereagh talks of the great and growing military power of the United States. The Marquis of Lansdowne, an opposition leader and one of the loudest trumpeters for retrenchment and economy, still commends the ministers for having been *beaten* into the policy of having a naval superiority upon the lakes. And one of the lords of the admiralty told the House of Commons last Monday that bumboat expeditions and pinchbeck administrations would no longer do for Canada; that Englishmen must lay their account for fighting battles in fleets of three-deckers on the North American lakes. All this is upon the principle of preserving peace by being prepared for war. But it shows to demonstration what will be the fate of the proposal for disarming.

In those days of slow communication between the two countries by monthly sailing packets, two months often passed before a dispatch or instruction reached its destination. Mr. Adams's dispatch of March 22, 1816, was thus acknowledged and his note of the 21st of that month to Lord Castlereagh approved by Mr. Monroe on the 21st of May following:

[Mr. Monroe to Mr. Adams, May 21, 1816.]

It is hoped that your proposition respecting the naval force to be retained on the lakes will be more successful than you had reason to expect from the remarks of Lord Castlereagh in your conference with him and his omission to answer your note on the subject at the date of your last letter to me. The proposition, in the manner and extent, was in strict conformity with the views of the President. He would, however, be satisfied to prevent the augmentation of the force, leaving it on both sides in the present State, and when it is considered that Great Britain has the ascendancy on Lake Ontario, which bears more immediately on Canada, and that the United States have it on Erie and Huron, which is important only in relation to the savages within our limits, it is not perceived on what ground it can be refused.

Mr. Monroe's anticipation of a favorable result despite Mr. Adams's forebodings of failure was speedily confirmed, and indeed, even while he was thus expressing his hopes of a better disposition on the part of the British Government, a dispatch from Mr. Adams was already on its way across the ocean, reporting Lord Castlereagh's acceptance of the proposition in principle. Under date of April 15, 1816, Mr. Adams wrote:

[Mr. Adams to Mr. Monroe, April 15, 1816.]

At the request of Lord Castlereagh I called upon him last Tuesday, when he informed me that the British Government were prepared to make an arrangement of the questions relating to the fisheries and to meet that of the Government of the United States relative to naval armaments, on the North American lakes, so far as to avoid everything like a contention between the two parties which should have the strongest force there. He asked me if I considered my power adequate and if I had instructions that would authorize me now to conclude an agreement upon these points. I told him that I did not consider my power as extending to the first and should not feel myself warranted in concluding an article upon the second without further instructions

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With regard to the force upon the lakes, he said excepting the vessels which might be necessary to convey troops occasionally from station to station, the British Government did not wish to have any ships in commission or in active service; and all the armed vessels now existing there might be laid up, as it was called here, in ordinary. I said that understanding it as now agreed that no new or additional force should be commenced upon the lakes on either side for the present, and all the effects of a positive engagement as existing from this time, there would be ample time for the concerting of an express article which might be satisfactory to both Governments, and in many respects it might be most convenient that this should be concluded at Washington. I therefore readily assented to his suggestion and wished that a power and instructions should be sent out to Mr. Bagot upon both the points, which I trust will immediately be done.

Lord Castlereagh appears to have acted promptly upon Mr. Adams's suggestion, and the necessary authority and instructions were for-

warded to the British minister at Washington, the Right Honorable Charles Bagot, who had previously presented his credentials to the President on March 21, 1816. Conferences seem to have followed between Mr. Bagot and the Secretary of State in regard to the several pending questions, and particularly that of the lake armaments. On July 8, 1816, Mr. Monroe wrote to Mr. Adams:

[Mr. Monroe to Mr. Adams, July 8, 1816.]

Mr. Bagot has received a power to arrange the difference respecting the taking and curing and drying fish on the shores of the British colonies, but whether it authorizes such an arrangement as will be useful and satisfactory to us I am as yet uninformed. He has also a power to regulate the naval force to be maintained on the lakes on each side, the nature and extent of which I have also yet to learn. This power to Mr. Bagot will diminish as to these objects the authority which has been sent to you. In every other respect your power will remain in full force and, we hope, produce the salutary effect contemplated by it.

The "power" thus referred to was dated May 21, 1816, and differed from the formal type of a full power in being addressed to Mr. Adams himself, not to the representatives of the Government with which he was to negotiate. It did not in terms contemplate any arrangement for the restriction or disarmament of the respective naval forces on the lakes, but generally authorized him to negotiate a special convention for the commerce between the United States and the British Colonies in North America and the West Indies, and also to adopt such regulations with respect to seamen and for other purposes as may be calculated to promote the advantage of both nations. So far as related to the question of the armaments to be maintained on the lakes, Mr. Adams's connection with the matter thereupon ceased.

Mr. Bagot's powers would seem to have been express, although no record of their terms is found. He speedily opened the negotiation thus transferred to Washington by addressing to Mr. Monroe the following note, dated July 26, 1816:

[Mr. Bagot to Mr. Monroe, July 26, 1816.]

Mr. Adams having intimated to His Majesty's Government that it was the wish of the Government of the United States that some understanding should be had or agreement entered into between the two countries in regard to their naval armaments upon the lakes, which, while it tended to diminish the expenses of each country, might diminish also the chances of collision and prevent any feelings of jealousy, I have the honor to acquaint you that I have received Lord Castlereagh's instructions to assure you that His Royal Highness the Prince Regent will cheerfully adopt, in the spirit of Mr. Adams's suggestion, any reasonable system which may contribute to the attainment of objects so desirable to both states. Mr. Adams not having entered into any detailed explanation of the precise views of his Government for giving effect to the principle which he had offered for consideration, the British Government is unacquainted with the particular arrangements which the Government of the United States would propose to make for this purpose, but I have been instructed to assure you of the general disposition of His Royal Highness the Prince Regent to listen with satisfaction to any proposal which may secure such ends and of his readiness to act in a spirit of the most entire confidence upon the principle which has been suggested by Mr. Adams.

Mr. Monroe replied to Mr. Bagot, fully setting forth the views and desires of the Government of the United States, his note being dated August 2, 1816, as follows:

[Mr. Monroe to Mr. Bagot, August 2, 1816.]

I have had the honor to receive your letter of the 26th of July, by which you inform me that Mr. Adams had intimated to your Government the desire of the President to arrange by compact the naval force which should be retained on the lakes by both nations, with a view to lessen equally the expense of each and likewise to

guard against collision, but that he had not explained in sufficient detail the proposal which he had been authorized to make to lead, at that time, to any practical result. You assure me that His Royal Highness the Prince Regent is well disposed to the object, and that in concert with this Government he is willing to adopt such measures as may be deemed expedient to give it effect.

The President being satisfied that if each nation should maintain on the lakes a large naval force it would expose both to considerable and useless expense, while it would multiply the risks of collision between them, instructed Mr. Adams, shortly after the peace, to make the proposal which you mention in the hope, from the amicable spirit in which it was conceived and the advantage which it was believed both parties would derive from it, that it might be carried into immediate effect. It is very satisfactory to the President to find that your Government approves the principle on which proposal is founded and that His Royal Highness the Prince Regent is willing to act on it.

I infer from your letter that you are desirous of obtaining a precise project, either for the purpose of acting on it here immediately, in conformity with the powers already given you, or of transmitting it to your Government for its consideration. Whether it be for the one or the other purpose, I am instructed to afford all the facility that I may be able; though it would undoubtedly be more agreeable to the President that the arrangement should be made and executed with the least delay possible.

I have the honor now to state that the President is willing, in the spirit of the peace which so happily exists between the two nations and until the proposed arrangement shall be canceled in the manner hereinafter suggested, to confine the naval force to be maintained on the lakes on each side to the following vessels, that is: On Lake Ontario to one vessel not exceeding 100 tons burthen and one 18 pound cannon, and on the Upper Lakes to two vessels of like burthen and force, and on the waters of Lake Champlain to one vessel not exceeding the like burthen and force; and that all other armed vessels on those lakes shall be forthwith dismantled, and likewise that neither party shall build or arm any other vessel on the shores of those lakes.

That the naval force thus retained by each party on the lakes shall be restricted in its duty to the protection of its revenue laws, the transportation of troops and goods, and to such other services as as will in no respect interfere with the armed vessels of the other party.

That should either of the parties be of opinion hereafter that this arrangement did not accomplish the object intended by it, and be desirous of annulling it, and give notice thereof, it shall be void and of no effect after the expiration of — months from the date of such notice.

If this project corresponds with the views of your Government and you are authorized to accede to it under any modifications which you may propose and in which we can agree, I am instructed to give it immediate effect, either by convention, the interchange of notes, or in any form which may be thought best adapted to the ends proposed. If, on the other hand, you consider it your duty to submit this project to your Government for consideration and to await its sanction before you can adopt it, and have power to make, *ad interim*, any provisional reciprocal arrangement having the same objects in view, I shall be happy to digest with you such provisional arrangement and to carry it reciprocally into effect for such time and in such manner as may be agreed on; or should your power be adequate, I am ready to concur in an immediate suspension of any further construction or equipments of armed vessels for any of the waters above named.

To this proposal and inquiry Mr. Bagot replied on August 6, 1816, announcing his inability, under his instructions, to come to an immediate agreement. He said:

[Mr. Bagot to Mr. Monroe, August 6, 1816.]

The general coincidence of sentiment which exists between our Governments in regard to entering into some arrangement upon this subject gives reason to hope that the several parts of it will become matter of easy adjustment; but as, in the consideration of any precise proposition to this effect, reference must necessarily be had to various points connected with the internal administration of His Majesty's provinces and to the naval assistance which the ordinary business of a peace establishment may require, I am not authorized to conclude definitely any agreement as to details without previously submitting it to my Government.

I shall therefore immediately forward for consideration the proposal contained in your letter; but I shall, in the meantime, willingly take upon myself to give effect to any arrangement upon which we may eventually agree for the purpose of suspending the further construction and equipment of armed vessels upon the lakes and of generally abstaining from exertion in those quarters.

Besides this correspondence it would seem that Mr. Monroe and Mr. Bagot held several conferences on the subject, for, under date of August 13, 1816, Mr. Monroe wrote an instruction to Mr. Adams at London, in which he said:

[Mr. Monroe to Mr. Adams, August 13, 1816.]

In consequence of instructions to Mr. Bagot, I have had several communications with him relative to the naval force to be retained on the lakes by each power, and also respecting the right of curing and drying fish on the shores of the British Provinces, northward of the United States, without having concluded a definite arrangement on either subject.

On the first, it appeared that Mr. Bagot's power was limited to a right to agree to suspend the further augmentation of the naval force on those waters, without fixing its maximum by any rational standard to the number of vessels; for example, which would be necessary for the support of the revenue laws, and that he was bound to communicate to his Government any precise proposition which might be made to that effect, and to await its order respecting it. I made to him such a proposition, having in view the object mentioned, as well as the other important objects of economy and a desire to avoid irritation and collision. The affair terminated in an agreement on the point to which alone his power extended, and an understanding that he should transmit the specific proposition to his Government for consideration. On this point several notes have passed between us. * * * It is probable that the arrangement of these two interests will again rest with you. The advantage of it, as you are already authorized to treat on other important subjects, is obvious.

The latest of the communications thus referred to is a note which on the previous day, August 12, Mr. Monroe had addressed to Mr. Bagot, for the purpose of closing with his provisional plan for suspending the augmentation of the respective naval forces on the lakes, as follows:

[Mr. Monroe to Mr. Bagot, August 12, 1816.]

I have had the honor to receive your letter of the 6th of this month, by which you inform me, that although you have full confidence that an agreement will finally be entered into by our governments to limit in a satisfactory manner the naval force to be maintained by them on the lakes, you consider it your duty to submit to your Government the project which I lately communicated to you to that effect, and to await its orders before you can proceed to make a definitive arrangement on the subject. You intimate, however, that you are willing to give effect to any arrangement on which we may agree for suspending in the meantime the further construction and equipment of armed vessels on the lakes and for abstaining from further exertion there.

To this delay no objection is entertained, provided such a provisional arrangement is made as may accomplish the just objects which our governments have in view. This arrangement, however, like the other, should be equal. In the same spirit, therefore, I now propose the regulations stated in my former note, to be adopted as a provisional arrangement. If your powers authorize, and you approve those regulations, on being assured that you will adopt a similar measure, an order will be immediately issued by this Government for carrying them fully into effect.

If your powers do not extend to this object, but are confined exclusively to the suspension of the further augmentation of the naval force on the lakes, I have then to observe that on receiving from you a statement of the force which your Government now has on the lakes, with an assurance that its further augmentation shall be suspended, an order will be immediately issued by this Government for confining the naval force of the United States there strictly within the same limit. * * *

Mr. Bagot replied the next day, August 13, 1816, practically closing the provisional arrangement to suspend the further increase of the forces on the lakes, by saying:

[Mr. Bagot to Mr. Monroe, August 13, 1816.]

For the same reasons which I have assigned in the letter which I had the honor to address to you on the 6th instant, I conceive that I am not authorized to make, even provisionally, any precise agreement as to the exact manner in which the respective naval forces upon the lakes shall be limited, as in any such agreement, whether

permanent or provisional, reference must equally be had to the arrangement of a peace establishment and the ordinary administration of His Majesty's provinces.

I am not in possession of a correct statement of His Majesty's naval force now in commission upon the lakes, but I will take the earliest means of procuring and communicating to you the most accurate information upon this point; and I can in the meantime give you the assurance that all further augmentation of it will be immediately suspended.

Two points are to be borne in mind in examining the preceding correspondence, that Mr. Bagot's powers, while explicit as to the subjects of negotiation, do not appear to have authorized him to conclude any formal convention as to either the agreement to mutually limit the naval forces on the lakes or the pending questions in regard to the Newfoundland fisheries; and that as to the latter question Mr. Monroe's negotiations with Mr. Bagot did not result in any conventional agreement, the treaty of October 20, 1818, having been in the end negotiated and signed at London by Mr. Gallatin and Mr. Rush on behalf of the United States and Mr. Robinson and Mr. Goulburn on behalf of Great Britain as special plenipotentiaries. As has been said, no record is found in the Department of State of the text of Mr. Bagot's or Mr. Monroe's powers to negotiate on either of the subjects they considered; but the internal evidence of the correspondence exchanged, as well as the shape eventually taken by the agreement to restrict the respective armaments on the lakes, indicates that the powers of the negotiators in this regard did not go beyond a simple agreement or arrangement to that end and stopped short of authority to conclude a formal treaty.

The matter rested in abeyance until the following November, probably owing to Mr. Bagot having sought from the home Government, and not from the British authorities in the provinces, the promised information in regard to the exact force then maintained by Great Britain on the lakes. Under date of November 4, 1816, Mr. Bagot wrote to Mr. Monroe:

[Mr. Bagot to Mr. Monroe, November 4, 1816.]

In conformity with the arrangement made between us in our correspondence of the 12th and 13th of August last, I have now the honor to inclose to you an account of the actual state of His Majesty's naval force upon the lakes; and to acquaint you that its further augmentation is suspended until the sentiments of His Majesty's Government upon the project contained in your note of the 5th (2d) of August, and which I transmitted to Lord Castlereagh, are known.

The statement accompanying this note showed twenty-eight vessels afloat on the lakes (including Lake Champlain), besides two 74-gun ships on the stocks on Lake Ontario, and the "keel, stem and stern-post of a frigate laid down at the Isle aux Noix" on Lake Champlain. Of this formidable force, thirteen were "laid up in ordinary," one "condemned as unfit for service," one "hauled up in the mud and condemned likewise," one used for current duties only, and unfit for actual service," one "carrying no guns," and one used for transporting stores, leaving an effective armed force of ten vessels, as follows:

On Lake Ontario: *Prince Regent*, 60 guns, in commission but unequipped, being used merely as a barrack or receiving ship. *Montreal*, 6 guns, in commission as a transport on Lake Erie. *Tecumseh*, 4 guns. *Newark*, 4 guns. *Huron*, 1 gun. *Sauk*, 1 gun. Used principally as transports.

On Lake Huron: *Confiance*, 1 gun; *Surprise*, 1 gun. Used for purposes of transport only.

On Lake Champlain: A gunboat, 4 guns; a gunboat, 3 guns. Used as guard boats.

On November 7, 1816, Mr. Monroe replied accepting Mr. Bagot's communication as in conformity to one of the propositions theretofore made on behalf of the United States, and adding:

[Mr. Monroe to Mr. Bagot, November 7, 1816.]

I have now the honor to inclose to you an account of the actual state of the naval force of the United States on the lakes, and to assure you that orders will be immediately given by this Government to prevent any augmentation of it beyond the limit of the British naval force on those waters.

The counter-statement of the actual force of the United States on the lakes is not yet found on record in the Department of State.

Here again the matter rested for a time, not however to Mr. Monroe's satisfaction, for, under date of November 14, 1816, he wrote to Mr. Adams:

[Mr. Monroe to Mr. Adams, November 14, 1816.]

The transfer of the negotiation from London to this city for the regulation of the naval force on the lakes on each side, and the limited powers that were given to Mr. Bagot, had much the appearance that the object was to amuse us rather than to adopt any effectual measure for that purpose. The supply in the interim of Canada with a vast amount of cannon and munition, of war is a circumstance which has not escaped attention.

Mr. Monroe's proposition of August 2, 1816, for a specific and equal limitation of the respective naval forces on the lakes did not take definite shape until the spring of the ensuing year, when a formal agreement was entered into by means of the diplomatic device known as an exchange of notes, on the 28th and 29th of April, 1817. The notes so exchanged read as follows:

WASHINGTON, April 28, 1817.

The undersigned, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, has the honor to acquaint Mr. Rush that, having laid before His Majesty's Government the correspondence which passed last year between the Secretary of the Department of State and the undersigned upon the subject of a proposal to reduce the naval force of the respective countries upon the American lakes, he has received the commands of His Royal Highness the Prince Regent to acquaint the Government of the United States that His Royal Highness is willing to accede to the proposition made to the undersigned by the Secretary of the Department of State in his note of the 2d of August last.

His Royal Highness, acting in the name and on the behalf of His Majesty, agrees that the naval force to be maintained upon the American lakes by His Majesty and the Government of the United States shall henceforth be confined to the following vessels on each side, that is—

On Lake Ontario, to one vessel not exceeding 100 tons burden and armed with one 18-pound cannon.

On the upper lakes, to two vessels not exceeding like burden each and armed with like force.

On the waters of Lake Champlain, to one vessel not exceeding like burden and armed with like force.

And His Royal Highness agrees that all other armed vessels on these lakes shall be forthwith dismantled, and that no other vessels of war shall be there built or armed. His Royal Highness further agrees that if either party should hereafter be desirous of annulling this stipulation, and should give notice to that effect to the other party, it shall cease to be binding after the expiration of six months from the date of such notice.

The undersigned has it in command from His Royal Highness, the Prince Regent, to acquaint the American Government that His Royal Highness has issued orders to His Majesty's officers on the lakes directing that the naval force so to be limited shall be restricted to such services as will in no respect interfere with the proper duties of the armed vessels of the other party.

The undersigned has the honor to renew to Mr. Rush the assurances of his highest consideration.

CHARLES BAGOT.

DEPARTMENT OF STATE, April 29, 1817.

The undersigned, acting Secretary of State, has the honor to acknowledge the receipt of Mr. Bagot's note of the 28th of this month, informing him that, having laid before the Government of His Britannic Majesty, the correspondence which passed between the Secretary of State and himself upon the subject of a proposal to reduce the naval force of the two countries upon the American lakes, he has received the commands of His Royal Highness the Prince Regent to inform this Government that His Royal Highness was willing to accede to the proposition made by the Secretary of State in his note of the second of August last.

The undersigned has the honor to express to Mr. Bagot the satisfaction which the President feels at His Royal Highness the Prince Regent's having acceded to the proposition of this Government as contained in the note alluded to. And in further answer to Mr. Bagot's note, the undersigned, by direction of the President, has the honor to state that this Government, cherishing the same sentiments expressed in the note of the second of August, agrees that the naval force to be maintained upon the lakes by the United States and Great Britain, shall, henceforth, be confined to the following vessels on each side, that is—

On Lake Ontario to one vessel not exceeding 100 tons burden, and armed with one 18-pound cannon. On the upper lakes to two vessels not exceeding the like burden each, and armed with like force, and on the waters of Lake Champlain to one vessel not exceeding like burden and armed with like force.

And it agrees that all other armed vessels on these lakes shall be forthwith dismantled, and that no other vessels of war shall be there built or armed. And it further agrees, that if either party should hereafter be desirous of annulling this stipulation and should give notice to that effect to the other party, it shall cease to be binding after the expiration of six months from the date of such notice.

The undersigned is also directed by the President to state that proper orders will be forthwith issued by this Government to restrict the naval force thus limited to such services as will in no respect interfere with the proper duties of the armed vessels of the other party.

The undersigned eagerly avails himself of this opportunity to tender to Mr. Bagot the assurances of his distinguished consideration and respect.

RICHARD RUSH.

The arrangement thus effected seems not to have suggested at the time any doubts as to its regularity or sufficiency, or as to the entire competence of the executive branch of the Government to enter into it and carry out its terms. Mr. Rush, on April 30, 1817, sent to Mr. Crowninshield, the Secretary of the Navy, a copy of his note of the preceding day to Mr. Bagot, which he describes as "a stipulation which has been entered into with the British Government relative to the reduction of the naval force upon the lakes," and, in conformity with the President's desire, requested the issuance by the Navy Department of "such orders as may be necessary for giving all the contemplated effect to the stipulation in question." This was promptly done, and on the 2d of May the Secretary of the Navy instructed the several naval commanders on Lake Erie and the upper lakes, Lake Ontario and Lake Champlain, to confine the force in actual or occasional service within the limits defined in the arrangement. Under these orders, the schooner *Lady of the Lake*, 89 tons, was assigned to Lake Ontario; the smaller schooners *Porcupine* and *Ghent* to the upper lakes, and the galley *Allen* to Lake Champlain.

It was not until nearly a year later that any uncertainty appears to have arisen as to the character of the arrangement, suggesting that it might in fact so far partake of the nature of a foreign treaty as to call for the advice and consent of the Senate. The occasion of this suggestion is not disclosed by an examination of the correspondence on file in the Department of State, nor is any reference to the subject found in the Journals of Congress for that session. Out of abundant caution, in view of his constitutional relations to the Senate in regard to matters of foreign intercourse, President Monroe communicated to that body on

April 6, 1818, the correspondence exchanged on the subject of the naval armaments on the lakes, with the following message:

To the Senate of the United States:

An arrangement having been made and concluded between this Government and that of Great Britain, with respect to the naval armament of the two Governments, respectively, on the lakes, I lay before the Senate a copy of the correspondence upon that subject, including the stipulations mutually agreed upon by the two parties. I submit it to the consideration of the Senate whether this is such an arrangement as the Executive is competent to enter into by the powers vested in it by the Constitution, or is such a one as requires the advice and consent of the Senate, and, in the latter case, for their advice and consent, should it be approved.

JAMES MONROE.

APRIL 6, 1818.

This message, with an accompanying selection of the correspondence on the subject, is printed in the folio collection of American State Papers, vol. IV, p. 202 *et seq.*, as Document No. 301, Fifteenth Congress, First Session.

Upon being received, in executive session, on April 6, 1818, the message and documents were read and referred to the Committee on Foreign Relations to consider and report thereon. On April 13, Mr. Barbour, from that committee, reported a favorable resolution as follows:

Resolved (two-thirds of the Senators present concurring therein). That the Senate do approve of, and consent to, the arrangement made in April, 1817, and contained in the President's message of the 6th of April, 1818, between the United States and His Britannic Majesty, relative to the naval force of the respective nations, to be maintained on the lakes; and recommend that the same be carried into effect by the President of the United States.

It was read a second time and considered as in Committee of the Whole and, no amendments having been proposed, it was reported and ordered to a third reading on the ensuing Thursday, the 16th of April, when it was agreed to by the unanimous affirmative vote of thirty Senators. It was further ordered that the Secretary of the Senate "lay the foregoing resolution before the President of the United States."

Following the usual routine in such cases, the arrangement was ratified and proclaimed by the President on April 28, 1818, the specific stipulations of the agreement being extracted from the correspondence exchanged between Mr. Rush and Mr. Bagot the year before, and embodied in the text of the proclamation, as follows:

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

Whereas, an arrangement was entered into at the city of Washington, in the month of April, in the year of our Lord one thousand eight hundred and seventeen, between Richard Rush, esq., at that time acting as Secretary for the Department of State of the United States, for and in behalf of the Government of the United States, and the Right Honorable Charles Bagot, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, for and in behalf of His Britannic Majesty, which arrangement is in the words following, to wit:

"The naval force to be maintained upon the American lakes by His Majesty and the Government of the United States shall henceforth be confined to the following vessels on each side, that is—

"On Lake Ontario, to one vessel, not exceeding one hundred tons burden, and armed with one eighteen-pound cannon.

"On the upper lakes, to two vessels, not exceeding like burden each, and armed with like force.

"On the waters of Lake Champlain, to one vessel not exceeding like burden, and armed with like force.

"All other armed vessels on those lakes shall be forthwith dismantled and no other vessels of war shall be there built or armed.

"If either party should be hereafter desirous of annulling this stipulation, and should give notice to that effect to the other party, it shall cease to be binding after the expiration of six months from the date of such notice.

"The naval force so to be limited shall be restricted to such service as will in no respect interfere with the proper duties of the armed vessels of the other party."

And whereas the Senate of the United States have approved of the said arrangement and recommended that it should be carried into effect, the same having also received the sanction of His Royal Highness, the Prince Regent, acting in the name and on the behalf of His Britannic Majesty;

Now, therefore, I, James Monroe, President of the United States, do, by this my proclamation, make known and declare that the arrangement aforesaid, and every stipulation thereof, has been duly entered into, concluded, and confirmed, and is of full force and effect.

Given under my hand, at the city of Washington, this twenty-eighth day of April, in the year of our Lord one thousand eight hundred and eighteen, and of the independence of the United States the forty-second.

By the President:

JAMES MONROE.

JOHN QUINCY ADAMS, *Secretary of State*.

This proclamation was not published in the collection of Statutes at Large until some forty years later, when it appeared in company with a number of similarly belated proclamations. (Statutes, XI, 766.)

Although the proclamation recites that the arrangement in addition to the approval of the Senate had "also received the sanction of His Royal Highness the Prince Regent, acting in the name and on the behalf of His Britannic Majesty," no record is found of any communication of such ratifying sanction to the Government of the United States, or any declaration other than that contained in Mr. Bagot's note to Mr. Rush of April 18, 1818. No trace of any confirmatory order in council is found in the British printed collections, and no evidence exists that the arrangement received on the part of Great Britain the formalities usually accorded to a treaty. The only publication of it in the British and Foreign State Papers is on pp. 1200-1201, Vol. 5, 1817-'18, where the President's proclamation is textually reproduced. The proclamation does not appear even to have been officially communicated to the British minister, Mr. Bagot, by the Secretary of State.

It seems evident, therefore, that at no time during the negotiations or at its completion did the arrangement in question take the shape of a formal international treaty. As between the United States and Great Britain it never passed beyond the stage of an agreement by exchange of notes, to which each party proceeded to give effect in the manner permitted or prescribed in its own domestic sphere of action. The procedure of the Senate in advising and consenting to it, and of the President in proclaiming it, was wholly municipal. No exchange of ratifications took place. The agreement became effective, by means of executive orders on each side, from the date of the original exchange of notes.

It may be proper here to observe that the resort of an exchange of diplomatic notes has often sufficed, without any further formality of ratification or exchange of ratifications, or even of proclamation, to effect purposes more usually accomplished by the more complex machinery of treaties. A striking proof of this is found in the relations between the United States and Great Britain. On December 9, 1850, in a conference held at the foreign office in London between the United States minister, Abbott Lawrence, and Lord Palmerston, it was agreed that the Canadian territory of Horse-shoe Reef, in the Niagara River, should be ceded to the United States for the purpose of erecting a light-house thereon. A memorandum, or protocol, of this agreement, was drawn up and signed by Mr. Lawrence and Lord Palmerston. On receipt of this protocol, Mr. Webster, January 17, 1851, instructed Mr. Lawrence to "address a note to the British Secretary of State for Foreign Affairs, acquainting him that the arrangement

referred to is approved by this Government." Mr. Lawrence did so on the 10th of February, 1851, and the acknowledgment of his note by the British secretary of state closed the transaction. No ratification occurred on either side. Congress appropriated money for the erection of a light-house; which was built; and the United States thus possesses and exercises full jurisdiction over territory acquired by cession from a foreign power without a treaty.

Another instance occurred with Spain in 1871. Negotiations had been pending for more than a year at Madrid for the settlement of certain claims of citizens of the United States on account of wrongs and injuries committed by the authorities of Spain in the island of Cuba. An understanding as to the basis of settlement having been reached by successive steps in conference and by correspondence, Gen. Sickles, on February 11, 1871, addressed to the Spanish minister of state, Don Cristino Martos, a note formulating his understanding of the agreement. Señor Martos replied, February 12, 1871, by simply acknowledging receipt of Gen. Sickles's statement, and adding, "I take pleasure in informing you that I entirely concur in the contracts of the said memorandum." No treaty, or protocol even, was signed by the empowered representatives, and no exchange of ratification or proclamation took place. The settlement was reported to Congress for its information, appropriations were voted to carry on the arbitration, an international commission was organized, and after nearly twelve years of labor, during which 140 cases were examined, awards against Spain were made to the amount of \$1,293,450.55 and duly paid to the United States, all this being accomplished by a mere exchange of notes.

In the two instances thus cited the arrangements entered into were not self-executing within the normal functions of the executive branch of the Government, but required legislation and appropriation by Congress to carry them into effect, as indeed they would have required had the engagements taken the form of a treaty, ratified on both sides and duly exchanged and proclaimed on both sides. The arrangement of 1817 for the mutual reduction and restriction of the respective armed naval forces on the Great Lakes was self-executory, requiring neither legislation nor appropriation at the time to render it effective, on the part of either the United States or Great Britain. As has been seen, the executive orders of the Secretary of the Navy sufficed for full compliance with its terms for a year after its adoption. The existing legislation gave to the Secretary of the Navy ample discretion as to the force to be employed on the lakes. The appropriations for the maintenance of such force were general in their terms. By the act of June 12, 1878, there was appropriated "For the construction and repair of certain vessels on the lakes, in the service of Government, and the pay and subsistence of the officers and crews of the same, sixteen thousand seven hundred dollars." (Statutes, I, 564.) By the act of March 3, 1813, supplementary to the act for increasing the Navy, in view of pending hostilities with Great Britain, the President was "authorized to have built, or procured, such a number of sloops of war, or other armed vessels, to be manned, equipped and commissioned, as the public service may require, on the lakes." (Statutes, II, 821.) By the additional appropriation act of April 18, 1814, it was enacted "That the sum of six hundred and twenty-five thousand dollars be, and the same is hereby, appropriated for the purpose of defraying the expenses which have been or may be incurred in building and equipping vessels of war on Lakes Ontario and Champlain," to be paid out of certain designated or available appropriations. (Statutes, III, 139.)

Immediately upon the exchange and proclamation of the treaty of Ghent, by which peace was restored, it was provided, by the act of February 27, 1815, "That the President of the United States be, and he hereby is, authorized to cause all the armed vessels thereof on the lakes, except such as he may deem necessary to enforce the proper execution of the revenue laws, to be sold or laid up, as he may judge most conducive to the public interest; such vessels being first divested of their armament, tackle, and furniture, which are to be carefully preserved." (Statutes, III, 217.) At the time, therefore, of the arrangement of 1817 the force to be maintained by the United States upon the lakes was discretionary with the Executive. Nor was this discretion impaired by succeeding legislation. A still further reduction of the lake force was permitted by the act of March 3, 1825, which authorized the President "to cause to be sold, at such time and in such manner, as he shall judge best for the public interest, * * * the whole of the public vessels upon Lakes Erie, Ontario, and Champlain, except the ships of the line, New Orleans and Chippewa, now on the stocks, under cover, at Sackett's Harbour." (Statutes, IV, 131.)

The earliest legislation in any way confirmatory or recognitory of the arrangement of 1817 is found in the act of September 9, 1841, which appropriated "For the construction or armament of such armed steamers or other vessels for defense on the northwestern lakes as the President may think proper and as may be authorized by the existing stipulations between this and the British Government, one hundred thousand dollars." (Statutes, V, 460.) It thus appears that during the first fifty years of national legislation the number, character, and distribution of the naval vessels of the United States on the Great Lakes and Lake Champlain was left by Congress to the discretion of the President, within the limits of appropriations actually made.

A similar discretion appears to have been exercised by the British Government. No exact statement of the assignment of British naval vessels for service on the lakes is found of record other than the list communicated by Mr. Bagot to Mr. Rush, November 4, 1816, which, as a maximum of force, considerably exceeded the subsequent assignment of the United States war vessels by the Secretary of the Navy after the conclusion of the arrangement of 1817. It would seem that the respective naval forces on the lakes remained in substantial equilibrium for many years thereafter. At any rate it is unlikely that the force of the United States should have been allowed to degenerate, even to the extent of almost complete disappearance, under the authority of the act of March 3, 1825, above quoted, if the British force had not kept pace with it in decline. Indeed, as will hereafter be seen, an officer so well qualified as Gen. Brady, by reason of his important command on the northeastern frontier, did not know, in 1840, that any understanding whatsoever existed between the United States and Great Britain regulating their respective naval forces on the lakes.

II.

In 1838 attention was particularly drawn to the subject of the lake armaments by the occurrence of disturbances in Canada and the apprehension of organized hostilities against the authority of the Crown on the part of the so-called "Canadian Patriots." Alarmed at their strength, and desirous of taking more effective steps to protect the long and exposed lake frontiers of Canada from attack, the British Government began to increase its naval force on the lakes. Prior to 1838 no

British armed vessel had been maintained above Detroit during many years, while the force on lakes Erie and Ontario was small and inadequate to cope with the apprehended danger.

In the month of January, 1838, a considerable number of the "Canadian Patriots" gained possession of Navy Island (belonging to Canada), in the Niagara River, whence to make a descent upon the opposite Canadian shore. The British authorities hired two or three lake schooners and armed and manned them for the purpose of frustrating the threatened invasion. These vessels do not appear to have emerged from the river into Lake Erie as cruisers while so armed and manned, but to have been discharged as soon as that particular danger had passed away. Later, in the summer and autumn of 1838, the authorities in Upper Canada employed one or more armed steamers, hired for the purpose and manned with a certain number of troops, to cruise on Lake Erie against apprehended incursions from the United States shores by the "Patriots." And after the burning of the British merchant steamer *Sir Robert Peel*, on the St. Lawrence, in 1838, and up to the close of navigation in that year, the Canadian authorities employed several hired steamers, besides barges, all armed and manned, cruising against parties of the "Canadian Patriots," principally on the St. Lawrence River, but, as would seem, at times emerging upon the Canadian waters of Lake Ontario. (Report of Gen. Scott to the Secretary of War, March 23, 1840.)

In view of these defensive armaments being in excess of those permitted by the arrangement of 1817, Mr. Forsyth, then Secretary of State, in the latter part of 1838, invited the British minister, Mr. Fox, to a personal interview, and called his attention to the disregard by Her Majesty's colonial authorities of the conventional arrangement between the two countries as to the extent of their respective naval armaments upon the lakes. Subsequently Mr. Fox addressed to the Secretary of State the following note:

WASHINGTON, November 25, 1838.

SIR: I am informed by Her Majesty's authorities in Upper and Lower Canada that, in consequence of the unlawful and piratical acts of hostility to which these provinces are at present exposed, it has been found necessary to equip under the British flag a more extensive naval armament upon the lakes and rivers which include the boundary line between the British and American possessions than either Government would be authorized to maintain according to the stipulations of the convention of 1817.

I certainly do not apprehend that any objection against this proceeding is likely to be raised on the part of the United States. But, in order to prevent the possibility of misapprehension in any quarter, I think it expedient to assure you that the armament is equipped for the sole purpose, as above expressed, of guarding Her Majesty's provinces against a manifest and acknowledged danger; and it will be discontinued at the earliest possible period after the causes which now create that danger cease to exist.

I have the honor to be, with great respect and consideration, sir, your most obedient and humble servant,

H. S. Fox.

This note does not appear to have been answered or even acknowledged by Mr. Forsyth. It is probable that, with the close of navigation in the St. Lawrence and the cessation during the winter of active operations by the "Canadian Patriots," the immediate necessity of formal action upon the British request, either by acquiescing in the proposed augmentation of the Canadian naval force on the lakes, or by denying it as incompatible with the existing stipulations, had passed. In fact, according to a report of Gen. Scott, the season of 1839 was "a tranquil one," and he did not hear of a single armed British vessel on Lake Erie. (Gen. Scott to the Secretary of War, March 23, 1840.)

This fact, coupled with the assurance given by Mr. Fox that the extraordinary armaments resorted to in 1838 would be discontinued at the earliest possible period after the causes which had created the danger should have ceased to exist, may explain Mr. Forsyth's silence, until the autumn of 1839, when he "made known, verbally, to Mr. Fox that, the causes assigned in his note no longer existing, the President expected that the British armament upon the lakes would be placed upon the footing prescribed by the convention. Mr. Fox engaged to communicate without delay to his Government the substance of the conversation between them; and expressed his own conviction that, if the winter then ensuing passed without renewed attempts to disturb the tranquillity of the Canadas, there could be no sufficient motive for either Government maintaining a force beyond that authorized by the convention of 1817." (Report of Mr. Forsyth to the President, March 13, 1840.)

The movements set on foot by the "Canadian Patriots," who at times directed their operations from the territory of the United States or took refuge therein after defeat or when menaced by a superior force, had come to an end, in 1839, and in his annual message to Congress, December 24, Mr. Van Buren stated that "There is every reason to believe that disturbances like those which lately agitated the neighboring British provinces will not again prove the sources of border contentions or interpose obstacles to the continuance of that good understanding which it is the mutual interest of Great Britain and the United States to preserve and maintain." He added:

On a review of the occurrences on both sides of the line it is satisfactory to reflect that in almost every complaint against our country the offense may be traced to emigrants from the provinces who have sought refuge here. In the few instances in which they were aided by citizens of the United States the acts of these misguided men were not only in direct contravention of the laws and well-known wishes of their own Government, but met with the decided disapprobation of the people of the United States. I regret to state the appearance of a different spirit among Her Majesty's subjects in the Canadas. The sentiments of hostility to our people and institutions which have been so frequently expressed there, and the disregard of our rights which have been manifested on some occasions, have, I am sorry to say, been applauded and encouraged by the people, and even by some of the local authorities, of the provinces. The chief officers in Canada fortunately have not entertained the same feeling, and have probably prevented excesses that must have been fatal to the peace of the two countries.

Whether moved by the hostile spirit of resentment for past grievances, to which President Van Buren alludes, or by the lesson taught by the events of the past year and by the consciousness that the exposed and undefended condition of the Canadian lake and river frontier might invite renewed disturbance of public tranquillity by the "Canadian Patriots" and their adherents, it is certain that large military preparations took place in Canada during the spring of 1838 and far into 1839. Some 13,000 fresh troops were sent to Canada. Fort William Henry, at Kingston; Fort Wellington, opposite Ogdensburg; Fort Mississauga, nearly facing Fort Niagara; and the fortifications on the Canadian shores and at the approaches to the St. Clair River, were strengthened and extensive barracks erected at various points. In naval matters, too, activity was shown in the building of a government steamer at Niagara City, in the purchase of two steamboats from citizens of Buffalo for service on Lake Erie, and in the building of a steamer on Lake Ontario. Rumors of other military preparations and of the building of other armed vessels on the lakes were rife, and the attitude of the British authorities in Canada seemed to menace the United States by a display of force much greater than any on the American side.

These conspicuous preparations naturally attracted considerable attention in the public mind and in Congress. Upon motion of Mr. Cray, on March 9, 1840, the House of Representatives—

Resolved, That the President of the United States be requested to communicate to this House, if compatible with the public service, whether the Government of Great Britain have expressed to the Government of the United States a desire to annul the arrangement entered into between the two Governments in the month of April, 1817, respecting the naval force to be maintained upon the American lakes; and that, if said arrangement be not annulled, whether there has been any violation of the same by the authorities of Great Britain.

A resolution introduced by Mr. Doty, calling for information as to “new military works being constructed and garrisoned with regular and militia troops by the English Government on that (Canadian) frontier,” was at the same time debated and tabled under the rule. A more comprehensive resolution was moved by Mr. Fillmore, and adopted by the House on the 6th of April following, requesting the President to communicate “any information in possession of the executive department showing the military preparation of Great Britain, by introducing troops into Canada or New Brunswick, or erecting or repairing fortifications on our northern and northeastern boundary, or by preparing naval armaments on any of the great northern lakes or the waters connected with them, and what preparations, if any, have been made by this Government to put the United States, and especially the northern and northeastern frontiers, in a posture of defense against Great Britain in case of a war.”

These several resolutions called forth three messages in reply, all bearing on the question of the armament on the lakes. The first, under date of March 28, 1840, responded to the resolution of March 9, and transmitted the above-cited note from the British minister, Mr. Fox, of November 25, 1838, as being “the only communication on file in this (the State) Department on the subject.” With the report of the Secretary of State was transmitted a report from the Secretary of War, communicating the report above mentioned of Maj. Gen. Scott, of March 23, 1840, on the general subject of the armament on the lakes in connection with the measures of defense adopted in 1838 against the movements of the “Canadian Patriots.” (House Ex. Doc. No. 163, Twenty-sixth Congress, first session.) Another message in response to the same resolution of March 9, 1840, was sent to the House by the President on the 29th June following, accompanied by a report from the Secretary of War, conveying a special report from Gen. Alexander Macomb, dated June 26, 1840, in relation to the British naval preparations. (House Ex. Doc. No. 246, Twenty-sixth Congress, first session.) Another message was sent in by President Van Buren, on the same day as the last, June 29, 1840, in response to the resolution of April 6, in regard to the reported military armaments of the British Government on the northern and northeastern frontier, communicating in like manner a report of the Secretary of War and a detailed statement from Gen. Macomb. (House Ex. Doc. No. 246, Twenty-sixth Congress, first session.) These three messages are annexed hereto for more convenient reference.

Although it thus appeared that the Government of Great Britain had not in fact manifested any desire to annul the arrangement of April, 1817, and that the extraordinary defensive measures in 1838 had been merely temporary, and had been abandoned when the immediate occasion thereof had ceased, it continued to be the general feeling of Congress that steps were necessary, in view of the vexatious

occurrences of the past years, to strengthen the military and naval defenses of the United States against the possibility of troubles arising with Great Britain. The Journals of Congress at that time teem with resolutions of inquiry and bills introduced looking to the adoption of defensive measures on the lakes and along the seaboard as well. The country was financially prosperous and the surplus revenues were an incentive to expenditures for national protection. This disposition found expression in the fortification bill, which later became an act, September 9, 1841. The debates upon the measure show that the condition of the lake defenses attracted considerable attention in view of the measures lately taken, and then reported to be in progress, on the Canadian side.

On August 3, 1841, Senator Allen, of Ohio, moved an amendment to the fortification bill, for the construction or armament of armed steamers, or other vessels for defense, on the northwestern lakes. This proposition was debated at some length on the day of its introduction and on the following day. Mr. Allen explained that he had not offered it with a view to benefit any particular section of the country, but that, having understood the British had two armed steamers on Lake Erie, "he thought armed steamers were necessary to watch armed steamers." Mr. Evans referred to the existing arrangement as prohibiting the construction of armed vessels by either power on the lakes. Mr. Woodbridge said he was not aware that the British Government had violated the treaty in this respect; that during the troubles of the recent insurrection that Government had employed vessels to assist in putting it down, but he had understood it was with the assent of our own Government this was done. Mr. Allen maintained that his amendment was demanded "for the defense of Lake Erie and for the purpose of making our force equal to that of the British Government, whose steamers were cruising about our coast, prying into its exposed parts." Mr. Preston regarded the project as wild and inefficient. Mr. Allen at length consented to modify his amendment, to provide for the construction or armament of such vessels on the northwestern lakes as the President might think most proper, and as should "be authorized by the existing stipulations between this and the British Government;" in which form the amendment was adopted, and it eventually became part of the fortification act of September 9, 1841. (Statutes v, 460.)

Very shortly after the passage of that act, Mr. Webster formally brought the matter of the reported increase of the British armament on the lakes to the attention of Mr. Fox, Her Majesty's minister, by a note dated September 25, 1841, in which, after reciting the terms of the agreement of 1817, and the communication addressed to him by Mr. Fox on November 25, 1838, he said:

[Mr. Webster to Mr. Fox, September 25, 1841.]

The Government of the United States being thus assured that the armament of which information was thus given, was for a special and temporary purpose, did not consider your communication as notice of the intention on the part of your Government to abandon the arrangement of 1817.

We are now informed that two large steam vessels fitted for warlike service, of 400 or 500 tons burden, and capable of carrying fifteen or twenty guns, are built, partially equipped, and ready to receive ordnance, and now lie at Chippewa. The Government of the United States does not allow itself to doubt that the object of this preparation is purely defensive, and intended only to guard against attacks like that of 1838; but as far as it exceeds the amount of force which either Government is permitted to maintain, by the stipulations of 1817, it seems proper to call the attention of the British Government to the subject, to the end that both parties

may have a clear understanding upon it. It is hoped, therefore, that if not already instructed respecting the object of the armament, you will inquire at the proper source, to the end that you may be able to give explicit assurances to this Government that these vessels of war, if, unhappily, it shall be found necessary to use them at all, will be confined to the sole and precise purpose of guarding Her Majesty's provinces against hostile attacks.

Two months having passed without any response from the British minister, Mr. Webster addressed Mr. Fox anew and even more formally on the subject, on the 29th of November. His note may conveniently be quoted in full:

DEPARTMENT OF STATE,
Washington, 29th November, 1841.

HENRY S. FOX, Esquire, etc.:

The undersigned, Secretary of State of the United States, has the honor of calling the attention of Mr. Fox, Her Britannic Majesty's envoy extraordinary and minister plenipotentiary, to a letter addressed to him by the undersigned on the 25th of September last, on the subject of two steam vessels of war which were understood to be built, or purchased, and in the process of equipment, at Chippewa, in Canada, and respectfully to invite as early a reply to that letter as Mr. Fox's information and instructions may enable him to give. It was the object of the convention of 1817 to prevent, both on the part of the United States and England, the necessity of maintaining expensive naval armaments on the lakes, to place the parties on a footing of perfect equality, and to remove causes of jealousy and apprehension on the borders, on the conclusion of the war, by a mutual agreement to disarm on both sides, so far as the waters of the lakes were concerned. It is obvious that a rigid compliance with the terms of the convention by both parties, can alone accomplish the purposes intended by it. The convention interdicted the building, as well as the equipment, of vessels of war, beyond the fixed limit. The United States have not been disposed to make complaint of the temporary deviation from this agreement by the British Government in 1838, under what was supposed to be a case of clear and urgent necessity for present self-defense. But it can not be expected that either party should acquiesce in the preparation by the other of naval means beyond the limit fixed in the stipulation, and which are of a nature fitting them for offensive as well as defensive use, upon the ground of a vague and indefinite apprehension of future danger. The undersigned doubts not that Mr. Fox will see the great importance as well as the great delicacy of this subject. Having thus again called Mr. Fox's attention to it, the undersigned concludes by observing that the United States can not consent to any inequality in regard to the strictness with which the convention of 1817 is to be observed by the parties, whether with respect to the amount of naval force, or the time of its preparation or equipment. The reasons for this are obvious and must immediately force themselves upon Mr. Fox's consideration.

The undersigned avails himself of this occasion, etc.

DAN'L WEBSTER.

Mr. Fox replied on the following day, November 30, 1841, giving the desired assurance that the vessels of war in service on the lakes had been equipped "for the sole purpose of guarding Her Majesty's provinces against hostile attack." His reply may also be given in full, as bearing upon the subsequent question of the termination of the arrangement of 1817:

WASHINGTON, *November 30, 1841.*

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, in which, referring to a previous communication addressed to me on the 25th of last September, you call my attention officially to the naval armament at present employed by Her Majesty's authorities on the Canadian lakes.

I was under the impression, that at an informal conversation which occurred at the period of your addressing me the first of these communications, I had sufficiently explained to you that I considered the statement contained in my official letter to Mr. Forsyth of the 25th of November, 1838, upon the subject of the increased British armament then fitting out upon the lakes, as applying equally to the circumstances of the present time; it being unfortunately notorious that Her Majesty's provinces are now, as then, threatened with hostile incursion by combinations of armed men, unlawfully organized and prepared for war, within the frontier of the United States; and it being found by experience, that the efforts of the United States Government, though directed in good faith to suppress those unlawful combinations, are not attended with the wished-for success.

I shall refer the communications which you have addressed to me to Her Majesty's Government at home, with the view of learning the pleasure of Her Majesty's Government in regard to the continuance or annulment, after due notice, of the convention of 1817; and in the mean time I have no difficulty in giving you the assurance which in your letter of the 25th of September you state the United States Government desires to receive, that the British vessels of war now serving on the Canadian lakes have been equipped for the sole purpose of guarding Her Majesty's provinces against hostile attack.

I avail myself of this occasion, etc.,

H. S. Fox.

This phase of the matter then terminated, and no record is found of any communication, as foreshadowed by Mr. Fox, of the pleasure of Her Majesty's Government touching the continuance or annulment of the arrangement of 1817.

Soon after the passage of the fortifications act of 1841, and in execution of the authority therein given to the President to build and equip war vessels for service on the lakes, the Secretary of the Navy initiated steps for the construction of an iron steamer for service on the upper lakes, and during the next two years there was constructed at Pittsburg the side-wheel bark *Michigan*, which was removed in sections to Erie and there completed and floated in the summer of 1844. Her registered tonnage was 498, and her armament then consisted of two 8-inch guns and four 32-pound carronades. This drew forth a remonstrance from the British Government.

Under date of July 23, 1844, Mr. Packenham, Her Majesty's minister, addressed Mr. Calhoun, representing that at that moment the naval armament of the United States on the lakes greatly exceeded that to which the two countries reciprocally restricted themselves by the agreement of 1817, especially in regard to number and caliber of guns, as to which he instanced recent advertisements for ordnance supplies for service on the lakes, calling for a number of 32-pound chambered cannon and ammunition for the same, while the agreement only permitted the use of 18-pounders. Mr. Packenham admitted that as a fact, not long before, when the Canadian provinces were threatened with invasion by parties unlawfully organized within the United States, Great Britain had, in her own defense, maintained a naval force on the lakes in excess of the stipulations of the agreement of 1817, but an explanation had been given of the necessity of that departure from the existing engagement which had appeared to satisfy the Government of the United States, and when a change in the attitude and disposition of the people on the frontier had become sufficiently evident to permit a feeling of security against aggression the British force had been reduced to the prescribed limits. He added:

At the present moment there are happily no circumstances on either side to justify or require any departure from the strict fulfillment of that agreement, and it therefore becomes by all means desirable that it should be fulfilled to the letter by both the contracting parties.

In view of all this, Mr. Packenham stated the desire of Her Majesty's Government "to receive satisfactory explanation as to the intentions of the United States Government with reference to the fulfillment of the agreement of 1817." The answer of Mr. Calhoun, under date of September 5, 1844, merely acknowledges Mr. Packenham's note as having been promptly referred for consideration to the Secretary of the Navy, and transmits a copy of the Navy Department's reply.

Secretary Mason's letter, under date of September 4, 1844, states that he is not aware that the United States naval force on Ontario and

Huron exceeds that to which the United States and Great Britain reciprocally restricted themselves by the agreement of 1817. As to Lake Erie, one steamer, the *Michigan*, had been constructed, under authority of the act of September 9, 1841, and was then lying at Erie completed, with her armament on board, ready for a cruise. In consequence of the remonstrance of Her Britannic Majesty's minister the commander of the *Michigan* had been ordered not to leave the port of Erie on a cruise until further orders. Mr. Mason's letter goes on to say:

[Mr. Mason to Mr. Calhoun, September 4, 1844.]

You will perceive that the orders were given for the construction of this vessel at a time when the British Government had in commission a larger force than that authorized by the agreement of April, 1817; but there is nothing on the records of the Department to show that there was a purpose of disregarding the restrictions of that agreement. I have reason to believe that Her Majesty's Government has still in commission on the Northwestern lakes a much larger force, both in number and tonnage, than that authorized by the agreement. I transmit copies of two letters received on that subject. The vessels mentioned in the letter of Passed Midshipman Lambert as in commission and commanded by officers of the royal navy are borne on the navy list of the royal navy published by authority of the admiralty; and although they are reported to be pierced for a larger number of guns, they appear by the list to mount only one gun each. But the restriction is as imperative as to tonnage and number as to armament. It is worthy of remark, that at the date of the agreement between the two Governments steamers were in use to a very limited extent as passenger vessels, and perhaps not at all as ships of war. The restriction as to tonnage would probably not have been adopted if their use had been anticipated. No effective steamer for any purpose, it is believed, would be built of a tonnage of 100 tons.

I would respectfully suggest that this consideration would justify a revision of the agreement on the subject, and also that if it is considered that the British vessels are not inconsistent with the agreement by reason of the armament being limited to one gun each, the armament of the steamer *Michigan* can be readily reduced to that number.

The accompanying reports mentioned by Secretary Mason are indefinite. Lieut. Parmelee learns that there is a powerful British steamer, "with her armament taken out," at Penetanguishia, on Lake Huron, while Passed Midshipman Lambert reports the recent launch at Kingston of a wooden steamer, the *Cherokee*, of some 600 tons, capable of being fitted for service in twelve days, and able to mount from sixteen to twenty-four guns; the presence in commission at Toronto of the iron steamer *Mohawk*, rated at from four to six guns; the schooner *Montreal*, on Lake Ontario, and on the upper lakes the iron steamer *Minus* and the schooner *Experiment*, both commanded by officers of the royal navy.

This report of the Secretary of the Navy is both suggestive and valuable, because expressly noting the great change of circumstances that had taken place on the lakes between 1817 and 1844, the substitution of iron for wood in steamer building, and the advance in ordnance and armament. His proposition for a revision of the agreement to adapt it to more modern exigencies does not appear to have been followed up, and correspondence on the general subject ceased for many years.

It was next revived by a formal inquiry addressed by Lord Napier to Mr. Cass on April 8, 1857, from which it appears that the presence of the *Michigan* in the upper lakes, which had passed unnoticed during the thirteen preceding years, had attracted renewed attention. He wrote as follows:

[Lord Napier to Mr. Cass, April 9, 1857.]

In conformity with the directions of the Earl of Clarendon, I have the honor to solicit your attention to a subject affecting the execution of the treaty of 1817 be-

tween Great Britain and the United States for the regulation of the establishments of the two countries on the lakes.

It has been submitted to Her Majesty's Government by the governor of Canada that an American armed vessel, qualified as a revenue cruiser, lies in the Detroit River, from which it makes frequent excursions into all the accessible lakes. This ship was alleged to be of the burden of 800 tons, custom-house measurement, and to be furnished with a 68-pound Paixhan gun, dimensions and armament inconsistent with the terms of the treaty above mentioned, which sanctions vessels of 100 tons only, armed with one 18-pounder.

These circumstances having been brought to the knowledge of Mr. Dallas by the Earl of Clarendon, the American minister was enabled to state to his lordship that the vessel in question, by name the *Michigan*, was armed only with an 18-pound gun, but that she was of a greater measurement than is compatible with the provisions of the convention.

In making this communication to you on the part of Her Majesty's Government, I venture to suggest to you the expediency of further inquiry, in order that measures may be taken for the correction of any infringement of the engagements of 1817 which may have occurred.

No record is found of any written reply on the part of Mr. Cass. The minister's inquiry, and especially his pointed exception to the qualification of the steamer at Detroit as a "revenue cruiser," and his implied claim that the employment of revenue cutters, as distinct from naval vessels, fell under the prohibitions of the agreement of 1817, may indeed have been embarrassing in view of the fact that the United States had maintained two small revenue cutters on the lakes for some years before, and at that time the building of other and smaller cutters for that service, in replacement of those then existing, was authorized by existing law. Section 2 of the sundry civil appropriation act of August 18, 1856, provided:

"That the Secretary of the Treasury be, and he is hereby authorized to cause to be sold at public auction the revenue cutter *Ingham*, now stationed at Detroit, and the *Harrison*, now stationed at Oswego, and in lieu thereof to cause to be built six cutters for the protection of the revenue on the lakes of the burden of about fifty tons each; and that the sum of forty-five thousand dollars be and the same is hereby appropriated for said purpose, out of any money in the Treasury not otherwise appropriated, in addition to the proceeds of the sale above authorized.

Lord Napier's note having been referred to the Secretary of the Treasury, Mr. Cobb replied, April 13, 1857, that "there are no revenue cutters stationed on either of the lakes. The steamer *Michigan*, referred to in the communication of Lord Napier, is a naval vessel, under the control of the Navy Department." In fact, by this time the two cutters previously stationed on the lakes had already been sold under authority of the foregoing enactment—the *Ingham* at Detroit, October 8, 1856, to Wm. H. Patton, for \$1,441 and the *Harrison* at Oswego, to Messrs. Merry & Gay, for \$1,690.

The building of the six small cutters for revenue service on the lakes would seem to have been begun about this time, and to have so far progressed by the summer of 1858 as to attract the attention of the British authorities. On July 2, 1858, in an informal and personal note to Mr. Cass, Lord Napier wrote:

[Lord Napier to Mr. Cass, July 2, 1858.]

When I next meet you it will be my duty to ask you verbally for an explanation on a matter which has reached Her Majesty's Government from Canada. It is reported there that the Federal Government have placed on the lakes six new armed cutters, and it is apprehended that should such be the case this measure may not square with the mutual obligations of the two countries contained in the treaty of 1817. You would oblige me very much by enquiring whether the vessels alluded to have been built and whether they are destined for the purpose alleged.

The verbal inquiry thus foreshadowed was made a few days later, when Lord Napier left with Mr. Cass an undated memorandum of its purport, as follows:

MEMORANDUM.—Are any vessels of war or revenue vessels about to be placed on the Lakes?

If there be vessels in course of construction for this purpose, what is their number and what is the tonnage and armament of each?

Are these vessels built in virtue of a specific appropriation by Congress, and when was that appropriation taken?

No trace of any action upon or in reply to this inquiry is found of record.

III.

The breaking out of the war of the rebellion in 1861 and the strenuous efforts put forth to strengthen the defenses of the United States on the water as on land naturally caused our naval armament and preparations to be watched with much care by the representatives of foreign powers. Great Britain was, of course, chiefly interested in this defensive movement, by reason of the popular manifestations of English and Canadian sympathy with the Confederate cause.

On August 31, 1861, Lord Lyons addressed Mr. Seward, stating that the attention of Her Majesty's Government had been drawn to the size and armament of the naval force maintained by the United States on the Lakes above Niagara Falls; that the tonnage of that force, "and certainly the armament of the steamer *Michigan*, would seem to be in excess of the limit stipulated in the arrangement of 1817;" and that he was instructed to represent the matter to the Government of the United States.

Mr. Seward, after consultation with the Secretary of the Navy, replied, September 12, that the naval force of the United States on the upper lakes consisted of the steamer *Michigan*, of 582 tons, carrying one gun of 8-inch caliber, and that the vessel was then, as theretofore, used exclusively for the purpose of recruiting for the Navy, with artillery practice for the newly recruited seamen. The naval force in question had not been increased, as the information received by the British Government seemed to have led it to apprehend. He added:

It is not supposed by this Government that their retaining of the steamer in question upon the lakes is a violation of their arrangement of 1817. But if the British Government thinks otherwise, we shall be happy to consider its views in that respect.

The invitation thus conveyed was not then accepted, and the matter dropped for a time.

In 1864 the efforts of certain Confederate agents, stationed in and operating from Canadian territory, occasioned great disquietude to the Government of the United States, and constrained the exercise of considerable vigilance on the northern frontier to prevent communication between those agents and their confederates in the United States. The inadequacy of the limited naval force on the Canadian frontier to meet the constant exigencies of the hour became apparent.

In the House of Representatives, on June 13, 1864, Mr. Spalding introduced a joint resolution (H. R. 91) with a view to terminating the arrangement of 1817. It was referred to the Committee on Naval Affairs, and on June 18 was reported back, without amendment. Pending the question on its engrossment, Mr. Elihu B. Washburne submitted an amendment, which was agreed to. The resolution was thereupon read a third time and passed. Careful search fails to show

the original text as moved by Mr. Spalding, but as the resolution passed the House, with Mr. Washburne's amendment, it is worthy of note that the preamble recites, as justifying notice of termination, that—

The treaty of eighteen hundred and seventeen, as to the naval force upon the lakes, was designed as a temporary arrangement only, and although equal and just at the time it was made, has become greatly unequal through the construction of [by] Great Britain of sundry ship canals; and whereas the vast interests of commerce upon the Northwestern lakes, and the security of cities and towns situated on their American borders, manifestly require the establishment of one or more navy-yards wherein ships may be fitted and prepared for naval warfare; and whereas the United States Government unlike that of Great Britain, is destitute of ship canals for the transmission of gunboats from the Atlantic Ocean to the western lakes, etc.

In this form the resolution went to the Senate, where it failed of consideration during that session.

The incident, however, did not escape the watchful eye of Lord Lyons, who seems to have reported it home for instructions, which were soon sent him. He accordingly wrote to Mr. Seward, under date of August 4, 1864, stating that the attention of Her Majesty's Government had been drawn to the motion made in Congress during the recent session with a view to putting an end to the arrangement between Great Britain and the United States limiting the naval force to be maintained upon the American lakes, and adding:

This arrangement has worked satisfactorily for nearly half a century. It has preserved both nations from a vast amount of inconvenience and expense, and (which is of infinitely more importance) it has warded off occasions of disagreement and quarrel. Her Majesty's Government would view the abrogation of it with great regret and no little alarm.

Mr. Seward replied the next day, August 5, 1864, informing Lord Lyons that the motion made in Congress and referred to in his note "did not prevail," and adding: "There is at present no intention to abrogate the arrangement which has been so long in force. I will thank your lordship to assure Her Majesty's Government that timely notice will be given if these views should change."

Soon afterwards, on September 26, 1864, Mr. F. W. Seward, Acting Secretary of State, notified Mr. Burnley, in charge of the British legation during Lord Lyons' absence, that, owing to recent hostile and piratical proceedings on the lakes between the United States and Her Majesty's possessions, it had been deemed necessary for the present to increase the "observing force" of the United States in those lakes; "that the arrangement is temporary, and will be discontinued so soon as circumstances permit;" and that the vessels to be employed on that service would be under instructions to respect British rights in all cases.

It is noticeable that in announcing such a temporary increase of naval armament on the lakes and in assigning the reasons therefor, Mr. Seward closely followed the precedent set by Mr. Fox's similar notification in 1838, when the Canadian peace was threatened by hostile ventures. Mr. Burnley does not seem to have recalled the pertinent parallel, for in his note of acknowledgment, on September 28, he said:

Without wishing to prejudge the question, I must leave it to Her Majesty's Government to decide as to whether such a measure, although only temporary in its effect, can be warranted by treaty stipulations.

To this intimation and reservation on Mr. Burnley's part Mr. Seward made no direct response; but on the 1st of October, 1864, he wrote to

Mr. Burnley, referring to previous correspondence on the subject, and announcing that—

It has been deemed advisable at this juncture to charter the steam-propellor *Hector* for revenue-cutter purposes on the lakes. Any excess which may be thus occasioned, however, in the armament of United States vessels in that quarter over the limit fixed by the arrangement of April, 1817, will be temporary only; and as it has been made necessary by an emergency probably not then foreseen, may not be regarded as contrary to the spirit of the stipulation of that instrument.

Mr. Bunley acknowledged receipt of this notification October 4, 1864, saying that he had forwarded copies to Her Majesty's Government.

On the 10th of October following Mr. Seward transmitted to Mr. Charles Francis Adams the notes exchanged with Lord Lyons August 4 and 5 and with Mr. Burnley September 26 and 28, 1864, with the simple direction "to make the needful explanations to Earl Russell on the subject." On the same day Mr. Seward informed Mr. Burnley, in connection with "the proposed temporary increase of the observing force of the United States on the American lakes," that the correspondence had been sent to Mr. Adams with instructions "to make explanations to Earl Russell, which it is not doubted will prove satisfactory to Her Majesty's Government."

Without, however, awaiting the result of the explanations, Mr. Adams had been directed to make to Earl Russell, or the expression of the opinions of Her Majesty's Government on the subject in consequence of Mr. Burnley's report of the incident, Mr. Seward determined to plant the question on a positive and unmistakable footing, by notifying the British Government that the right of self-preservation would be exercised to the full by the increase of the defensive armament on the Great Lakes to any necessary limit, and, if need were, by terminating the arrangement of April, 1817, should it be found incompatible with measures needful to the public safety.

On the 24th of October, 1864, Mr. Seward forwarded to Mr. Adams a comprehensive and explicit instruction to this end, passing in review the recent occurrences proving the inadequacy and inefficiency of the British laws and regulations applicable to the enforcement of the obligations of friendly neutrality on the Canadian borders and the repeated failures of the British authorities to check the constant abuses of Canadian territory as a base for hostile designs against the peace of the United States. Instances of such unfriendly acts are cited, such as the seizure of the *Chesapeake* by Braine upon the high seas; the capture of the *Philo Parsons* and *Island Queen* by an armed band from Malden, on the Canadian shore of the mouth of the St. Clair River below Detroit, in connection with a plot to release the insurgent officers confined on Johnsons Island, and the raid upon St. Albans, Vt., by a band of desperate men from Canada. After commenting on the insufficiency of the British neutrality act, as proven by these occurrences, and the slight heed paid in Canada to the Queen's proclamation of warning, Mr. Seward takes up the question of our defensive measures on the lakes as follows:

[Mr. Seward to Mr. Adams, October 24, 1864.]

It is obvious that at the time of the informal arrangement between the two Governments of April, 1817, limiting their naval force on the lakes, a condition of things like the present could scarcely have been anticipated. The object of that arrangement was to prevent either party from keeping in commission the considerable naval force which they both had employed in that quarter during the war then recently closed. If peace was expected to continue, the force was an unnecessary burden to both parties; but, on the contrary, if war should suddenly be renewed, one or the

other might, in anticipation of that event, have clandestinely or otherwise so augmented its force as to insure to it a dangerous advantage. Believing that these were the views entertained at the time the arrangement was entered into, and that neither the United States nor Great Britain expected to relinquish their right to self-defense in the event of a civil war in the territories of either by the limitation referred to, the Secretary of the Treasury, as you will see from the correspondence (a copy of which is inclosed) has chartered two propellers, one on Lake Erie and the other on Lake Ontario, for the purpose of checking and suppressing depredations on our trade and territory in that region similar to those above mentioned.

* * * * *

It is, however, impossible to resist the conviction that peace can not be reliably maintained upon the border unless more effective measures shall be adopted to secure that end than those that have hitherto been used by both Governments. * * *

It is now my duty to instruct you to give notice to Earl Russell, in conformity with the treaty reservation of that right, that at the expiration of six months after you shall have made this communication the United States will deem themselves at liberty to increase the naval armament upon the lakes if, in their judgment, the condition of affairs in that quarter shall then require it. And you will be careful to advise us of the day on which this notice is given. You will assure the earl, however, that this proceeding is adopted only as a necessary measure of national defense, and not only with no purpose of hostility, but, on the other hand, with a desire no less earnest than heretofore to preserve the most friendly relations with Great Britain. Moreover, this Government will in every case direct its best efforts to prevent invasion of British territory, whether by way of popular retaliation or otherwise. It is not for us to indicate the means Her Majesty's Government should adopt to maintain neutrality on their side of the border.

* * * * *

Nor are we able to conceive of any remedy adequate to the present exigency but the recognition by Her Majesty's Government of the just and exclusive sovereignty of the United States in all the waters and territories legally subject to the jurisdiction of this Government.

It is to be noted that Mr. Seward characterized the arrangement of 1817 as "informal," a circumstance which may serve to throw light on his subsequent action in regard to it.

Mr. Seward's instruction was recast by Mr. Adams, the language and arrangement of the original being substantially adhered to, in the form of a note to Earl Russell, which, being dated November 23, 1864, was delivered at the foreign office "at 5 minutes past 6 o'clock that evening," and on November 25 Mr. Adams duly reported his compliance with Mr. Seward's orders.

The British answer was conveyed to Mr. Seward through the medium of the British chargé, Mr. Burnley, on December 17, 1864, by means of a brief note transmitting copy of an instruction addressed by Lord Russell to Lord Lyons, under date of November 26, 1864. Although described by Mr. Burnley as "relative to the intention of the United States Government, in conformity with the treaty reservation right, to increase their naval armament upon the North American lakes," the note of Lord Russell is an elaborate controversion of Mr. Seward's general line of argument and a defense of the declared indisposition of Her Majesty's Government either to deny to the Southern States belligerent rights, or to propose to Parliament to make the laws of the United Kingdom generally more strict, or to refuse asylum to persons in hostility with a government or nation with whom Her Majesty is at peace. Counter charges of excessive exercise of belligerent rights by the United States are made. The reference to the pivotal point of Mr. Seward's communication, the stipulated six months' notice of the termination of the agreement of 1817, is very brief, and reads as follows:

[Lord Russell to Lord Lyons, November 26, 1864.]

It is perfectly competent to the United States to give notice that at the end of six months that Government will be at liberty to increase their naval force on the lakes.

It is certainly true that while both nations are disarmed on the lakes marauders or depredators may destroy or capture unarmed vessels belonging to either party. Her Majesty will, of course, be at liberty also to increase her naval force on the lakes at the expiration of the six months after notice if she should think fit so to do. But it is to be hoped that when peace is restored the former agreement, which was formed upon just and wise considerations, may be renewed, as one that must be advantageous to both parties.

On January 10, 1865, Mr. Seward wrote to Mr. Burnley, briefly acknowledging the receipt of the British reply, and promising "attentive consideration" to the views and suggestions presented to this Government by Earl Russell.

Meanwhile the critical condition of affairs on the Canadian border and the apparent inability, if not indisposition, of the provincial authorities to enforce observance of neutrality in that quarter, was not slow to attract the earnest attention of Congress. On the assembling of Congress in December, 1864, much feeling was displayed by reason of the recent St. Albans raid, and on December 14 the publication of the news that the raiders had been discharged on the previous day for want of jurisdiction led Senator Chandler to move a resolution directing the committee on military affairs "to inquire into the expediency of immediately enlisting an army corps to watch and defend our territory bordering on the lakes and Canadian line from all hostile demonstrations." Mr. Sumner followed this up the next day, December 15, 1864, by submitting the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the President of the United States be requested, if not inconsistent with the public interest, to furnish to the Senate any information on the files of the Department of State concerning the paper published in the volume of Treaties and entitled "Arrangement between the United States and Great Britain between Richard Rush, esquire, Acting Secretary of State, and Charles Bagot, His Britannic Majesty's envoy extraordinary," relating to the naval force to be maintained upon the American lakes.

The message of President Lincoln, of January 9, 1865, in compliance with this resolution, merely transmitted a brief report of the Secretary of State, of even date, referring to the publication in the folio volume of American State Papers of the correspondence between Messrs. Monroe and Rush and Mr. Bagot, whereby the arrangement of April 28-29, 1817, was concluded. Mr. Seward added:

From these papers it will be seen that the limitation of the force to be maintained was sought by this Government. Although the convention seems somewhat informal as published in the Revised Statutes, yet upon consulting the original papers it appears to have been duly approved by the Senate, ratified by the President, and proclaimed as law.

This message was referred, January 12, 1865, in the regular order of business, to the Senate Committee on Foreign Relations, of which Mr. Sumner was chairman.

There was then pending, in that committee, Mr. Spalding's resolution (H. Res. 91) of the preceding session, which, as amended by Mr. Washburne, had passed the House of Representatives on the 18th June, 1864, for the giving of notice of the termination of the arrangement of 1817. Being aware of the fact that, in the meantime, such notice of termination had been given in diplomatic correspondence with Her Majesty's Government, Mr. Sumner, on January 10, 1865, requested a copy of it, as "necessary to determine the character of the legislation which may be expedient," and on January 12 received from Mr. Seward information of the instruction of October 24, 1864, which Mr. Adams had communicated to Earl Russell on the 23d of November following, as above stated. On January 17, 1865, Mr. Sumner, from the Committee on

Foreign Relations, reported the House resolution with an amendment. The next day, January 18, the joint resolution, with Mr. Sumner's amendment, was considered in Committee of the Whole, and, the amendment having been agreed to, the resolution was reported to the Senate as amended and forthwith passed. (Senate Journal Thirty-eighth Congress, second session, p. 82.) The House of Representatives concurred in the amendment February 4, 1865, and the resolution was approved by the President on the 9th of the same month, as follows:

JOINT RESOLUTION to terminate the treaty of eighteen hundred and seventeen, regulating the naval force on the lakes.

Whereas the United States of the one part, and the United Kingdom of Great Britain and Ireland, of the other part, by a treaty bearing date April, eighteen hundred and seventeen, have regulated the naval force upon the lakes, and it was further provided that "if either party should hereafter be desirous of annulling this stipulation and should give notice to that effect to the other party, it shall cease to be binding after the expiration of six months from the date of such notice;" and whereas the peace of our frontier is now endangered by hostile expeditions against the commerce of the lakes, and by other acts of lawless persons, which the naval force of the two countries, allowed by the existing treaty, may be insufficient to prevent; and whereas, further, the President of the United States has proceeded to to give the notice required for the termination of the treaty by the a communication which took effect on the twenty-third of November, eighteen hundred and sixty-four: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the notice given by the President of the United States to the Government of Great Britain and Ireland to terminate the treaty of eighteen hundred and seventeen, regulating the naval force upon the lakes, is hereby adopted and ratified as if the same had been authorized by Congress.

Approved, February 9, 1865.

By this time the situation on the Canadian border had materially changed for the better. An increased disposition to obey the dictates of good neighborhood was apparent. As Mr. Adams said, writing under date of March 24, 1865, to Mr. Seward, the tone towards the United States had much changed, the alarmist policy seemed to have been abandoned, and in lieu of it came earnest professions of a belief that the friendly relations between the two countries were firmly established. Mr. Adams observed, in this relation, that it was not necessary at that time "to analyze very closely the elements with which this new faith is compounded." Doubtless the accumulating proof of the approaching success of the Union arms, and a recognition of the indefensible position of Canada in the event of trouble arising with the United States, had much to do with the evident change of heart across the border. The necessity for terminating the arrangement of 1817 and for adopting extraordinary defensive measures on the northern frontier had substantially passed away.

Under these reassuring circumstances, and notwithstanding the action of Congress in attaching legislative sanction to the executive notification of termination, which would in terms end the arrangement on the 23d of May, 1865, steps were taken to continue it "practically" in force after that date, and on the 8th of March, 1865, Mr. Seward sent to Mr. Adams, in London, the following instruction:

[Mr. Seward to Mr. Adams March 8, 1865.]

The notice which has been given by this Government for the termination of the convention of April, 1817, limiting the naval force on the lakes was indispensable to enable us technically with honor to protect ourselves from insurgent incursion from Canadian territory. As it is hoped and believed that, under existing circumstances, no further incursions of that character may be apprehended you may say to Lord Russell that we are quite willing that the convention should remain practically in

force; that this Government has not constructed or commenced building any additional war vessels on the lakes or added to the armament of the single one which was previously its property; and that no such vessels will in future be built or armed for us in that quarter. It is hoped and expected, however, that Her Majesty's Government, on its part, so long as this determination shall be observed in good faith by that of the United States, will neither construct nor arm nor introduce armed vessels in excess of the force stipulated for by the convention referred to.

No record appears of the action of Mr. Adams upon this instruction, but that he did in fact communicate its purport to Earl Russell is seen by an inquiry addressed to Acting Secretary Hunter June 15, 1865, by Sir F. Bruce, who had succeeded Lord Lyons as British minister. Referring to Mr. Adams's communication of the instruction of March 8 to Her Majesty's Government, and reciting its import, Mr. Bruce adds:

[Sir F. Bruce to Mr. Hunter, June 15, 1865.]

It may admit of a doubt whether the notice of the abrogation of the agreement has been rendered inoperative by the communication thus made through the American minister, and, as it is essential that no misapprehensions should exist on so important a point, I am instructed to ascertain whether the dispatch to Mr. Adams of the 8th of March was intended as a formal withdrawal of the notice given by the American minister to Earl Russell on November the 23d, or whether, as the period of six months from the date of that notice has now elapsed, the agreement of 1817 is virtually at an end, and the abstinence of either party from increasing its force on the lakes, without further notice, rests merely on the good pleasure of each, unfettered by any diplomatic engagement.

Her Majesty's Government consider that in the latter case a very inconvenient state of things would exist; and I am directed to add that it appears to Her Majesty's Government that the best course would be that the notice of November 23 should be formally withdrawn, whereby the agreement of 1817 would remain unimpaired and would continue binding on both parties until six months after fresh notice by either of them of its abrogation.

To this inquiry Mr. Seward replied on the following day, June 16, 1865, that the instruction to the United States minister at London, of March 8, upon which his reported communication to Earl Russell was based, "was intended as a withdrawal of the previous notice within the time allowed, and that it is so held by this Government."

Here the correspondence in regard to the termination of the arrangement of 1817 ceased. Since that time, it has been regarded by both governments as in continuing force and effect.

IV.

A brief episode of correspondence upon the general subject occurred later in 1865, by reason of the building and equipment of several revenue cutters by the United States for service on the lakes.

On November 3, 1865, Sir Frederick Bruce stated that the attention of Her Majesty's Government had been called recently to the construction of several vessels prepared for the reception of a powerful armament, which were reported to be destined for service on the North American lakes, and added:

In view of the convention which exists between the United States and Great Britain determining the armed force to be employed by the parties to it on the lakes, I am instructed to bring the subject under your notice and to request you to be good enough to furnish me with the explanations which it seems to require.

Mr. Seward promptly responded on the next day, November 4, 1865, that any vessels of the character referred to which might be in course of construction by the United States "are intended exclusively for revenue purposes, and that their armament, if any, will not be allowed to exceed the limit stipulated in the conventional arrangements."

Since then no question has been raised by the British Government with regard to the maintenance by the United States of armed revenue cutters on the lakes. It appears to be tacitly understood on both sides that vessels for the revenue service do not fall within the limitations of the arrangement of 1817. Although the arrangement itself is silent on this point this understanding is quite in consonance with the spirit of the negotiations which led up to the final exchange of notes. Mr. Monroe's first proposition, made through Mr. Adams, expressed a willingness "to abstain altogether from an armed force beyond that used for the revenue." Mr. Adams emphasized this view in his first conference with Lord Castlereagh, intimating that "it would best of all suit the United States if the armaments should be confined to what is necessary for the protection of the revenue." Lord Castlereagh admitted that "everything beyond what should be necessary to guard against smuggling would be calculated only to produce mischief." Mr. Adams repeated this consideration in his note of March 21 to Lord Castlereagh. The questions of revenue service and armed naval force for defense or offense seem to have been kept apart, until Mr. Adams, in his note of August 2, 1816, to Mr. Bagot, proposed that the naval force to be retained by each party on the lakes should be "restricted in its duty to the protection of its revenue laws, the transportation of troops and goods, and to such other services as will in no respect interfere with the armed vessels of the other party." By August 13, 1816, Mr. Monroe had ascertained that Mr. Bagot's instruction was limited to the mere suspension of further augmentation of the naval force, and did not extend to fixing a rational maximum as "to the number of vessels, for example, which would be necessary for the support of the revenue laws," which point Mr. Monroe appears to have had very strongly in mind. The provisional understanding of August, 1813, did not go beyond the suspension of any increase in the respective naval forces on the lakes. The British statement, submitted in November following, only covers armed naval vessels and transports. The final agreement of April 28-29, 1817, while reciting the acceptance of Mr. Monroe's propositions of August 2, 1816, makes no reference to the previous suggestion that the employment of the permitted "naval force" might be restricted to the collection or protection of the revenue.

However matters may have been then left in this regard, the fact remains that now, and for some twenty-six years, the Government of the United States has drawn a sharp distinction between its naval force and revenue service on the lakes, and that this contention has passed without controversy by Great Britain since it was announced by Mr. Seward in November, 1865.

The revenue service of the United States now comprises three steamers: *Perry*, stationed at Erie, 281.54 tons, with an armament of two 3-inch rifles; *Fessenden*, stationed at Detroit, 329.81 tons, one 30-pounder Parrott gun, two 24-pounder Dahlgren howitzers, and two 3-inch rifles; and *Johnson*, stationed at Milwaukee, 499 tons, one 30-pounder Parrott and two 24-pounder howitzers. Another vessel, *Bibb*, formerly stationed on Lake Ontario, has been sold.

On the part of Canada no information has been received as to the number, tonnage and armament of British revenue vessels stationed in those waters; but it has been recently stated on the authority of a report to the Treasury Department that two vessels for the Dominion Government have been constructed at Owen Sound, Ontario, and that, although styled "revenue cutters" and destined to suppress smug-

gling on the St. Lawrence River and the lakes, they are in reality capable of adaptation to naval purposes.

Additional weight is perhaps lent to this latter aspect of the report by the precautions that appear to have been taken to guard them from public inspection. Another revenue cutter of a similar type is said to have been recently launched from Hamilton, Ontario.

The naval force of the United States on the lakes, as has been seen, is now and has been for many years confined to the single iron side-wheel steamer *Michigan*, which now rates 685 tons and carries four howitzers.

It does not appear that any British or Canadian vessels are now, or have been for many years, stationed on the lakes. The dimensions of the locks on the St. Lawrence River canals exclude the entrance into the lakes of any vessel exceeding 9 feet draft or 200 feet in length; and the only vessels borne on the British naval list which appear to be capable of passage from the deep seas to the lakes are some forty-three tugs, drawing 8 feet and armed with rapid-firing guns.

V.

The resolution of the Senate calls explicitly for the opinion of the Department of State as to whether the arrangement of 1817 is now held to be in force. The correspondence exchanged in 1864 shows that it is so regarded.

As between the United States and Great Britain, Mr. Seward's withdrawal of the six months' notice of termination within the prescribed period and before the arrangement could in fact have ended, is no less authoritative than the notification itself. The British Government, being as incompetent to inquire into the authority of the Secretary of State to withdraw the notification as it would have been to inquire into his authority to give it under the terms of the arrangement, could only accept and respect the withdrawal as a fact. Whether the Secretary of State was himself competent to withdraw the notification is not material to the international aspect of the case, because, being a matter of domestic administration, affecting the internal relations of the executive and legislative powers, it in no wise concerns Great Britain. It would be an unprecedented and inadmissible step in the international relations of governments, were Great Britain to question the authority of the executive power to withdraw the notification and continue the arrangement in full force and effect. As between the two countries the arrangement is, therefore, to be regarded as still in existence, and only terminable in good faith by six months' notice of abrogation on either side.

As a question of domestic administration and powers the action of the Secretary of State in giving notice of termination without previous authority of Congress, and in withdrawing such notice without legislation to that end and after the notice had been confirmed by legislation, opens the door to nice argument in theory touching the constitutional aspects of the transaction, but as a matter of practical effect such considerations may now be deemed more interesting than material. While on the one hand it may be said that the action of the Senate, in 1818, when it advised and consented to the arrangement of 1817, and the action of the President in proclaiming the arrangement, made it a supreme law of the land, and that the later action of Congress, in 1865, confirming the notice of termination given, operated alike to cure any constitutional defect attending the giving of that notice and to abrogate the arrangement itself as a law of the land, it may be asserted

on the other hand that the continuance of an international understanding with Great Britain limiting the naval force to be maintained by either party in commission on the lakes, even if lacking express legislative sanction, is violative of no existing legislation. No act of Congress requires, or has at any time required, the commission of any other war vessel on the lakes than the single steamer *Michigan*, which for many years has formed our sole naval armament in those waters. This consideration doubtless prompted Mr. Seward when he directed Mr. Adams to "say to Lord Russell that we are quite willing that the convention should remain *practically* in force."

The circumstances and form of the original arrangement entered into in April, 1817, show that it did not in terms purport to be more than a record of an understanding mutually reached by the two governments for the reciprocal regulation of a matter within the administrative competence of each. Its interpretation since that time, by temporarily increasing the force on either side when demanded by the exigencies of national self-defense, by tacitly withdrawing the necessary revenue force from the purview of its stipulations, and by resorting (as in the case of the *Michigan*), to the use of vessels of heavier tonnage and greater armament than the arrangement allows, all show an elasticity of observance which is only compatible with the conviction, on both sides, that the whole subject was within administrative control, and that it sufficed to observe the spirit of the arrangement by mutually abstaining from the creation of a martial force on the lakes in menace of the reciprocal obligations of good neighborhood.

The question of the spirit which controls, and should control, the understanding of two great Governments in this regard is to-day of vastly greater importance to their interests than any narrow contentions respecting its literal observance. Three-quarters of a century have passed since the arrangement was entered into. It in no wise responds to the enormous changes wrought in the conditions of intercourse upon the lakes. As an engagement to limit the effective force on each side to four vessels not exceeding 100 tons burden apiece, and each armed with one 18-pounder cannon, it is obsolete. Steam has supplanted sail power for naval purposes. The character and caliber of necessary and usual ordnance has undergone a change no less great. The upper lakes, where in 1817 the employment of any naval force on behalf of the United States was, to quote Mr. Adams's language, "important only in relation to the savages within our limits," are now the seat of an extended civilization. Where the huts of hostile tribes then stood great cities now face their shores. Chicago and Milwaukee are but half-century growths. The pathways of commerce cover the Great Lakes. The annual entry and clearance tonnage in some of the farther ports rivals, and even exceeds, that of New York and Liverpool.

An equally notable geographical change has taken place. Ship canals have made possible the passage of comparatively large vessels from lake to lake, and even from the extremest shores of Superior or Huron to the Atlantic Ocean. In 1817 a ship of any tonnage was confined to the lake on whose shores it was built. The waters of Erie, Ontario, and even Champlain had been the scene of historical naval combat, but the engaging fleets of three-deckers, carrying 74 guns apiece, had been built in those lakes, while the signing of the treaty of peace left other half-built frigates to decay on the stocks.

Under the changed conditions now prevailing such cumbrous armaments are as impracticable as needless. Flotillas of light-draft gunboats,

rapid and easily maneuvered, are now most suitable for use on the lakes in time of war; in peace they should well be restrained on either side.

In 1817 the problem that presented itself to the negotiators was one of immediate reciprocal disarmament rather than of future limitation. A desperate war had just closed, and its animosities still rankled despite the signature of a treaty of peace. The navies of the late contestants were on the lakes, incapable of removal thence and unfitted for the peaceful mission of commerce. Their maintenance was as dangerous as it was useless and costly. The treaty of Ghent was silent in regard to disarmament; but upon the lakes only by disarmament could the menace of fresh conflicts on trivial occasion be averted from that quarter. All these considerations abundantly appear as a motive of President Monroe's proposals to restrict the armaments on the co-terminous inland seas. They were in fact destroyed, no naval force worthy of the name being preserved. The little sailing vessels still permitted could not even act together. Ontario was separated from Erie by an impassable natural barrier. Offensive and defensive means of warfare were alike removed, leaving only the necessary instrumentalities for protecting the revenues and controlling the savages on either side the frontier.

If as early as 1844 the Secretary of the Navy held that the sole consideration of steamers having taken the place of sailing craft for warlike purposes would justify a revision of the agreement; if the House of Representatives in 1864 regarded the opening of the Canadian canals as introducing an inequality incompatible with its engagements; and if, as Mr. Seward held in 1864, the informal arrangement of April, 1817, could scarcely have anticipated such a condition of things as the maintenance of a marine force adequate to cope with domestic troubles or civil war on either side, it seems most desirable now, in view of the long lapse of time and the vast changes wrought in these and other no less important regards, that the arrangement now grown obsolete in practice and surviving in the letter only as a declared guaranty of international peace should be modified to fit the new order of things, and with such adaptation to the exigencies of the future as prudence may forecast.

It may be permissible to adduce a simple illustration of the unfitness of the arrangement of 1817 to meet the modern conditions of intercourse. But recently the offer of a shipbuilding establishment on one of the lakes to construct one of the smaller vessels of our new Navy, to be taken thence by the Welland and River canals to the Atlantic for service on our seaboard, was not considered, because the construction of such a vessel on the lakes might be held to contravene the arrangement of 1817.

The undersigned, in conclusion, may remark that, in view of the complex character of the whole subject, and the circumstance that the history of the steps taken in 1865 for the termination of the arrangement of 1817, and of the manner in which it was continued in force, has not heretofore been connectedly presented, he has felt constrained to give a full relation from the outset, with copious citation from the records. Copies of certain selected documents, bearing upon the question of termination, are appended in full for more convenient consultation.

Respectfully submitted.

JOHN W. FOSTER.

DEPARTMENT OF STATE,
Washington, December 7, 1892.

LIST OF ACCOMPANYING PAPERS.

1. President Van Buren to House of Representatives, Washington, March 28, 1840.
 1. Mr. Forsyth to President Van Buren, Washington, March 13, 1840.
 2. Mr. Fox to Mr. Forsyth, Washington, November 25, 1838.
 3. Mr. Poinsett to President Van Buren, War Department, March 27, 1840.
 4. Gen. Scott to Mr. Poinsett, Elizabethtown, N. J., March 23, 1840.
2. President Van Buren to House of Representatives, Washington, June 29, 1840.
 1. Mr. Poinsett to President Van Buren, War Department, June 27, 1840.
 2. Gen. Macomb to Mr. Poinsett, Washington, June 26, 1840.
3. President Van Buren to House of Representatives, Washington, June 29, 1840.
 1. Mr. Poinsett to President Van Buren, War Department, June 27, 1840.
 2. Gen. Macomb to Mr. Poinsett, Washington, June 26, 1840.
4. House Resolution No. 91. Referred to Committee on Foreign Relations, June 20, 1864.
5. Lord Lyons to Mr. Seward, Washington, August 4, 1864.
6. Mr. Seward to Lord Lyons, Washington, August 5, 1864.
7. Mr. Seward to the British charge d'affaires, Washington, September 26, 1864.
8. Mr. Burnley to Mr. Seward, Washington, September 28, 1864.
9. Mr. Seward to Mr. Burnley, Washington, October 1, 1864.
10. Mr. Burnley to Mr. Seward, Washington, October 4, 1864.
11. Mr. Seward to Mr. Adams, Washington, October 24, 1864.
 1. Mr. Fessenden to Mr. Seward, September 23, 1864.
 2. Mr. Seward to Mr. Fessenden, September 30, 1864, with accompaniment.
 3. Mr. Fessenden to Mr. Seward, September 30, 1864.
 4. Mr. Thurston to Mr. Seward, October 20, 1864.
12. Mr. Burnley to Mr. Seward, December 17, 1864.
 1. Earl Russell to Lord Lyons, foreign office, November 26, 1864.
13. President Lincoln to United States Senate, Washington, January 9, 1865.
 1. Mr. Seward to President Lincoln, Washington, January 9, 1865.
14. Mr. Seward to Mr. Burnley, January 10, 1865.
15. Mr. Sumner to Mr. Seward, January 10, 1865.
16. Mr. Seward to Mr. Sumner, January 12, 1865.
17. Mr. Seward to Mr. Adams, March 8, 1865.
18. Sir F. Bruce to Mr. Hunter, Washington, June 15, 1865.
19. Mr. Seward to Sir F. Bruce, Washington, June 16, 1865.

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President Van Buren to House of Representatives.

THE HOUSE OF REPRESENTATIVES:

I communicate to the House of Representatives, in compliance with their resolution of the 9th instant, reports from the Secretaries of State and of War, with documents, which contain information on the subject of that resolution.

M. VAN BUREN.

WASHINGTON, March 28, 1840.

DEPARTMENT OF STATE,
Washington, March 13, 1840.

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 9th instant, requesting the President to communicate to that body, "if compatible with the public service, whether the Government of Great Britain has expressed to the Government of the United States a desire to annul the arrangement entered into between the two Governments in the month of April, 1817, respecting the naval force to be maintained upon the American lakes; and, if said arrangement be not annulled, whether there has been any violation of the same by the authorities of Great Britain," has the honor to report to the President a copy of the only communication on file in this Department on the subject to which the resolution refers. Prior to the date of that communication the Secretary of State, in an interview invited for that purpose, called Mr. Fox's attention to the disregard by Her Majesty's colonial authorities of the convention arrangement between the two countries as to the extent of naval armaments upon the lakes. In the autumn of the past year the Secretary of State made known verbally to Mr. Fox that, the causes assigned in his note no longer existing, the President expected that the British armament upon the lakes would be placed upon the footing prescribed by the convention. Mr. Fox engaged to communicate without delay to his Government the substance of the conversation between them, and expressed his own conviction that, if the winter then ensuing passed without renewed attempts to disturb the tranquillity of the Canadas, there could be no sufficient motive for either Government maintaining a force beyond that authorized by the convention of 1817.

All of which is respectfully submitted.

JOHN FORSYTH.

THE PRESIDENT OF THE UNITED STATES.

WASHINGTON, November 25, 1838.

SIR: I am informed by Her Majesty's authorities in Upper and Lower Canada that, in consequence of the unlawful and piratical acts of hostility to which those provinces are at present exposed, it has been found necessary to equip, under the British flag, a more extensive naval armament upon the lakes and rivers which include the boundary line between the British and American possessions than either Government would be authorized to maintain according to the stipulations of the convention of 1817.

I certainly do not apprehend that any objection against this proceeding is likely to be raised on the part of the Government of the United States. But, in order to prevent the possibility of misapprehension in any quarter, I think it expedient distinctly to assure you that the armament is equipped for the sole purpose, as above expressed, of guarding Her Majesty's provinces against a manifest and acknowledged danger; and that it will be discontinued at the earliest possible period after the causes which now create that danger shall have ceased to exist.

I have the honor to be, with great respect and consideration, sir, your most obedient and humble servant,

H. S. Fox.

Hon. JOHN FORSYTH, etc.

WAR DEPARTMENT, *March 27, 1840.*

SIR: I have the honor to acknowledge the receipt of a copy of the resolution of the House of Representatives of the 9th instant, referred to this Department by your directions, with instructions to report "any specific information in possession of the War Department relative to the present British naval armament on the lakes, and the periods when the increase of force, beyond the stipulations of the convention of 1817, were severally made on different points of the lake frontier."

The resolution was immediately referred to Maj. Gen. Scott and other officers, who have been serving on the lake frontier, for any information in their possession, or in their power immediately to procure, upon the subject; and search is making for such as may be on the files of the Department. I now inclose, for your information, a copy of the report of Gen. Scott, who is the only officer yet heard from. As soon as reports are received from the other officers called upon, and the examination of the files of the Department is completed, any additional information which may be thus procured will be immediately laid before you.

Very respectfully, your most obedient servant,

J. R. POINSETT.

THE PRESIDENT OF THE UNITED STATES.

HEADQUARTERS EASTERN DIVISION,
Elizabethtown, N. J., March 23, 1840.

SIR: I have the honor to acknowledge your letter of the 16th instant, covering a resolution of the House of Representatives of the 9th, referred from the Department of State to the Department of War, inquiring "whether the Government of Great Britain has expressed to the Government of the United States a desire to annul the arrangement entered into between the two Governments, in the month of April, 1817, respecting the naval force to be maintained upon the American lakes; and, if said arrangement be not annulled, whether there has been any violation of the same by the authorities of Great Britain."

Confining myself to the latter clause of the resolution, which I have underscored and which you have referred to me, I report the facts within my knowledge, connected with that inquiry; premising that I have not had the time to verify my own impressions by those of more than one officer (Col. Worth), who has recently held a command under me on the frontiers of the British North American provinces.

I do not know, nor do I believe, that the British authorities have had a single armed vessel of any description on the lakes above Detroit in many years. But, in the summer and autumn of 1838, whilst I was absent to the south, I understood from our officers, on my return, that the authorities in Upper Canada had employed one or more armed steamers, hired for the purpose, and manned with a certain number of troops, to cruise on Lake Erie against apprehended invasions from our side on the part of the people called *Canadian patriots*.

The season of 1839 having been a tranquil one, I did not hear of a single armed British vessel on that lake.

In the month of January, 1838, at the time there was a considerable number of those *patriots* in possession of Navy Island, in the Niagara River, seeking to make a descent on the opposite Canadian shore, the British authorities hired two or three lake craft (schooners), and armed and manned them for the purpose of frustrating that threatened invasion; but it is believed that those vessels were never on Lake Erie whilst so armed and manned, and that they were discharged as soon as that particular danger had passed away.

Down to the burning of the British merchant steamer the *Sir Robert Peel*, on the St. Lawrence in 1838, I can not learn that the authorities of the Canadas had any armed vessel of any sort in *activity* (whatever they may have had laid up in port) either on Lake Ontario or on the River St. Lawrence; but, after that event, and up to the close of navigation in 1838, I learn from Col. Worth, who returned from the Cherokee country to the Canadian frontier several months before my return, that those authorities had employed several hired steamers, beside barges, all armed and manned, cruising against parties of the same *patriots*, principally on the St. Lawrence, and confined to their own waters.

During the past season (of 1839), and up to the close of navigation, two steamers, owned or hired by the British authorities, one schooner, and a number of barges, were, in like manner, employed on the same lake and river, as a security against an apprehended renewal of the troubles of the preceding year.

I have the honor to remain, sir, with high respect, your most obedient servant,

WINFIELD SCOTT.

Hon. J. R. POINSETT.

Secretary of War.

President Van Buren to House of Representatives.

THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES:

I transmit herewith a communication of the Secretary of War, accompanied by a report of the Commanding General of the Army, embracing all the information which can be obtained, in answer to a resolution of the House of Representatives of the 6th of April, 1840, requesting to be furnished with any information in possession of the Executive Department, showing the military preparation of Great Britain, by introducing troops into Canada or New Brunswick, or erecting or repairing fortifications on our northern or northeastern boundary, or by preparing naval armaments on any of the great northern lakes; and what preparations, if any, have been made by this Government to put the United States, and especially those frontiers, in a posture of defense against Great Britain, in case of war.

M. VAN BUREN.

WASHINGTON, *June 29, 1840.*WAR DEPARTMENT, *June 27, 1840.*

SIR: In reply to a resolution of the House of Representatives of the 6th of April last, referred by you to this Department, requesting you (if not incompatible with the public interest) to communicate "any information in possession of the Executive Department, showing the military preparation of Great Britain by introducing troops into Canada or New Brunswick, or erecting or repairing fortifications on our northern or northeastern boundary, or by preparing naval armaments on any of the great northern lakes, or the waters connected therewith; and what preparations, if any, have been made by this Government to put the United States, and especially the northern and northeastern frontier, in a posture of defense against Great Britain in case of war," I have the honor to transmit you a report of the Commanding General, embodying the substance of the replies of certain officers commanding the most prominent points of those frontiers, who, it was supposed, would be able to furnish the information required by the resolution, and had been written to on the subject.

Very respectfully, your most obedient servant,

J. R. POINSETT.

The PRESIDENT OF THE UNITED STATES.

HEADQUARTERS OF THE ARMY,
Washington, June 26, 1840.

SIR: I have the honor to report that, in obedience to your instructions letters have been addressed to the various officers, who, it was supposed, might be able to procure the information required by the resolution of the House of Representatives of the 6th of April, 1840, to wit:

"*Resolved*, That the President of the United States be requested (if not incompatible with the public interest) to communicate to this House any information in possession of the Executive Department, showing the military preparation of Great Britain, by introducing troops into Canada or New Brunswick, or erecting or repairing fortifications on our northern or northeastern boundary, or by preparing naval armaments on any of the great northern lakes, or the waters connected therewith, and what preparations, if any, have been made by this Government to put the United States, and especially the northern and northeastern frontier in a posture of defense against Great Britain in case of war."

In answer to the letter addressed to him on the subject, and with regard to the resolution of the House as far as relates to "military preparations of the British authorities on the northern frontier of the United States," Gen. Scott communicates the following facts:

That he has paid but little attention to the forts and barracks erected by the British authorities near the borders of Maine, above Frederickton, in New Brunswick, or in Upper Canada, above Cornwall, being of the fixed opinion that all such structures would be of little or no military value to either of the parties in the event of a new war between the United States and Great Britain; that he was last summer at

the foot of Lake Superior, and neither saw nor heard of any British fort or barracks on the St. Marys River; that between Lakes Huron and Erie the British have three sets of barracks, one at Windsor, opposite to Detroit; one at Sandwich, a little lower down, and the third at Malden, 18 miles below the first, all built of sawed logs, strengthened by blockhouses, loopholes, etc.; that Malden has long been a military post with slight defenses; these have been recently strengthened. The works at Sandwich and Windsor have also, he thinks, been erected within the last six or eight months; that near the mouth of the Niagara the British have two small forts, George and Mississauga; both existed during the last war; the latter may be termed a permanent work. Slight barracks have been erected within the last two years on the same side near the falls, and at Chippewa, with breastworks at the latter place; but nothing, he believes, above the work first named on the Niagara, which can be termed a fort.

That since the commencement of recent troubles, and (consequent thereon) within our own limits, Fort William Henry, at Kingston, and Fort Wellington, opposite to Ogdensburg (old works), have both been strengthened within themselves, beside the addition of dependancies. These forts may be called permanent; that on the St. Lawrence below Prescott, and confronting our territory; he knows of no other military post. Twelve miles above, at Brockville, there may be temporary barracks and breastworks; that he knows that of late Brockville has been a military station.

That in the system of defenses on the approaches to Montreal the Isle aux Noix, a few miles below our line and in the outlet of Lake Champlain, stands at the head. This island contains within itself a system of permanent works of great strength; on them the British Government has, from time to time, expended much skill and labor; that Odletown, near our line on the western side of Lake Champlain, has been a station for a body of Canadian militia for two years to guard the neighborhood from refugee incendiaries from our side. He thinks that barracks have been erected there for the accommodation of those troops and also at a station with the like object near Alburg, Vt. He believes that there are no important British forts or extensive British barracks on our borders from Vermont to Maine. In respect to such structures on the disputed territory, that Governor Fairfield's published letters contain fuller information than has reached him through any other channel; that he had heard of no new military preparation by the British authorities on the St. Croix or Passamaquoddy Bay.

That, among such preparations, perhaps he ought not to omit the fact that Great Britain, beside numerous corps of well-organized and well-instructed militia, has at this time within her North American provinces more than 20,000 of her best regular troops. The whole of those forces might be brought to the verge of our territory in a few days. Two-thirds of that regular force has arrived out since the spring of 1838. Gen. Scott states that he has had the honor to report directly to the Secretary of War with regard to the naval force recently maintained upon the American lakes by Great Britain.

In answer to a similar letter to that addressed to Gen. Scott, Gen. Brady writes from Detroit that the only permanent work of which he has any knowledge is the one at Fort Malden, which has in the last year been thoroughly repaired, and good, substantial barracks of wood have been erected within the works, sufficient, he thinks, to contain 600 if not 800 men; that the timber on the island of Bois Blanc has been partly taken off and three small blockhouses erected on the island. These are all the military improvements he knows of between the mouth of Detroit River and the outlet of Lake Superior. That temporary barracks of wood, capable of containing perhaps 150 men, have been erected opposite to Detroit; that some British militia are stationed along the St. Clair River. Col. Bankhead writes that of the military and naval preparations of the British on the northern frontier of the United States he can only state that Fort Mississauga, nearly opposite our Fort Niagara, has been enlarged and strengthened; that permanent and extensive barracks were commenced last summer at Toronto and are probably completed by this time; and that a large vessel, for a steamer, was being constructed last fall at Niagara City by and for the service of the Government; that the British Government has on Lake Ontario a steamboat commanded and officered by officers of the navy and is commissioned, he presumes, as a Government vessel; that the authorities of Upper Canada had last summer in their service on Lake Erie two steamboats which were at first hired from citizens of Buffalo, but which they subsequently purchased, as he was informed.

Lieut. Col. Crane writes from Buffalo that the only military work in that vicinity undergoing repairs (within his knowledge) is Fort Mississauga, at the mouth of the Niagara River on the Canada side, which the English have been repairing and extending for two years past, and it is believed to be now in a very efficient state; that there have been rumors of armed steamers being built or building at Chippewa, but on inquiry he could learn of none except the ordinary steamboats for the navigation of the lakes; it has been said, however, that one is building on Lake Ontario

by the English, and intended for the revenue service; but he does not know what truth there is in this statement.

Lieut. Col. Pierce reports from Plattsburg that he has no knowledge of any military or naval preparations of the British authorities on the line of frontier adjacent to his command, comprising what is generally called the Lake Champlain frontier, except the introduction of troops at Odletown and Napierville, near the boundary line between New York and Canada, on the west side of the lake, and also the establishment of a line of posts from Missisquoi Bay, on the east side of the lake, along and near to the Vermont frontier as far as the Connecticut River; the erection of a new barrack and fieldwork at St. John's, and the repairs and armament of the Isle aux Noix with increased force at both of these posts; that none of the positions so occupied by the British troops are within the claimed limits of the United States; that these military preparations (it has been heretofore understood) have been made by the British authorities to suppress rebellion and insurrection among the Canadian population.

Capt. Johnson reports from Fort Brady that he has heard nothing on the subject of the resolution but mere rumors, and that there is no appearance of any works going up any where on the Canada side of the St. Marys River. The files of the Adjutant-General's Office have been examined, but no further information has been elicited.

Respectfully submitted.

ALEXANDER MACOMB,
Major-General.

The SECRETARY OF WAR.

President Van Buren to House of Representatives.

THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES:

I transmit the inclosed report of the Secretary of War, with accompanying documents, furnishing all the information the Department has been able to obtain in relation to any violation of or desire on the part of Great Britain to annul the agreement entered into between that Government and the United States in the month of April, 1817, relative to the naval force to be maintained upon the American lakes, called for by a resolution of the House of Representatives of the 9th of March last.

M. VAN BUREN.

WASHINGTON CITY, *June 29, 1840.*

WAR DEPARTMENT, *June 27, 1840.*

SIR: In answer to a resolution of the House of Representatives of the 9th of March last, referred by the Secretary of State to this Department, in which the President is requested to communicate, if compatible with the public service, "whether the Government of Great Britain have expressed to the Government of the United States a desire to annul the arrangement entered into between the two governments in the month of April, 1817, respecting the naval force to be maintained upon the American lakes; and that if said arrangement be not annulled whether there has been any violation of the same by the authorities of Great Britain," I have the honor to transmit you a report of the Commanding General, containing the replies of several officers who had been written to on the subject. This report, and the letter of Gen. Scott which was transmitted to you on the 27th of last March, embrace all the information the Department can give in answer to the resolution.

Very respectfully, your most obedient servant,

J. R. POINSETT.

The PRESIDENT OF THE UNITED STATES.

HEADQUARTERS OF THE ARMY,
Washington, June 26, 1840.

SIR: I have the honor to report that, in obedience to your instructions, letters have been addressed to the various officers whom it was supposed might be able to procure the information required by the resolution of the House of Representatives, to wit:

"Resolved, That the President of the United States be requested to communicate

to this House, if compatible with the public service, whether the Government of Great Britain have expressed to the Government of the United States a desire to annul the arrangement entered into between the two governments in the month of April, 1817, respecting the naval force to be maintained upon the American lakes; and that if said arrangement be not annulled, whether there has been any violation of the same by the authorities of Great Britain."

In answer to the letter addressed to him on this subject, Gen. Scott states that, in respect to the naval force recently maintained upon the American lakes by Great Britain, he has just had the honor to report to the Secretary of War, by whom the resolution of the House of Representatives of the 9th instant was directly referred to him.

Gen. Brady reports that, as to the arrangement entered into in relation to the naval force to be maintained on the American lakes by the two governments, he has to answer that he does not know whether the arrangement has been violated or not by the British Government; for he must confess that he never knew that there was such an understanding between the two governments until the resolution of Congress making the inquiry was sent to him. During the border troubles he frequently had a piece of ordnance on board the steamboat in the employ of the United States; and had the service demanded it, he should not have hesitated to have increased the number, not being aware of the arrangement referred to.

Col. Bankhead states that he has no information that the arrangement entered into between the governments of the United States and Great Britain in the month of April, 1817, respecting the naval force to be maintained upon the American lakes, has been violated; that a large vessel, for a steamer, was being constructed last fall at Niagara City for the service of the Government. The British Government has, on Lake Ontario, a steamboat commanded and officered by officers of the navy, and is commissioned, he presumes, as a Government vessel. The authorities in Upper Canada had last summer in their service on Lake Erie two steamboats, which were at first hired from citizens of Buffalo, but which they subsequently purchased, as he was informed.

Col. Crane states, from Buffalo, that he has no information on the subject; that there have been rumors there of armed steamers being built or building at Chippewa, etc, but on inquiry he could learn of none, except the ordinary steamboats for the navigation of the lakes; that it has been said, however, that one is building on Lake Ontario, by the English, and intended for the revenue service, but he does not know what truth there is in this statement.

Col. Pierce writes from Plattsburg that he has no knowledge of any naval force being maintained on Lake Champlain in violation of the arrangement entered into by the two governments of Great Britain and the United States in the month of April, 1817. He believes there has been no British naval force maintained on Lake Champlain since the arrangement referred to.

Capt. Johnson reports that he has not had any information on the subject referred to in the resolution that may be depended on; nothing but mere rumor.

The files of the Adjutant-General's Office have been examined, but no further information has been elicited.

Respectfully submitted.

ALEX. MACOMB,
Major-General.

THE SECRETARY OF WAR.

House Res. 91. In the Senate of the United States, June 20, 1864. Read twice and referred to the Committee on Foreign Relations.]

JOINT RESOLUTION in relation to the treaty of eighteen hundred and seventeen.

Whereas the treaty of eighteen hundred and seventeen, as to the naval force upon the lakes, was designed as a temporary arrangement only, and, although equal and just at the time it was made, has become greatly unequal through the construction of Great Britain of sundry ship canals; and whereas the vast interests of commerce upon the northwestern lakes, and the security of cities and towns situated on their American borders, manifestly require the establishment of one or more navy-yards wherein ships may be fitted and prepared for

naval warfare; and whereas the United States Government, unlike that of Great Britain, is destitute of ship canals for the transmission of gunboats from the Atlantic Ocean to the western lakes:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and is hereby, authorized and directed to give notice to the Government of Great Britain that it is the wish and intention of the Government of the United States to terminate said arrangement of eighteen hundred and seventeen, in respect to the naval force upon the lakes, at the end of six months from and after the giving of said notice.

Passed the House of Representatives June 18, 1864.

Attest:

EDWARD MCPHERSON, *Clerk.*

Lord Lyons to Mr. Seward.

WASHINGTON, August 4, 1864.

SIR: The attention of Her Majesty's Government has been drawn to the motion, which was made in Congress during the recent session, with a view to putting an end to the arrangement between Great Britain and the United States limiting the naval force to be maintained upon the American lakes.

This arrangement has worked satisfactorily for nearly half a century. It has preserved both nations from a vast amount of inconvenience and expense, and (which is of infinitely more importance) it has warded off occasions of disagreement and quarrel. Her Majesty's Government would view the abrogation of it with great regret and no little alarm.

I have the honor, etc.,

LYONS.

Mr. Seward to Lord Lyons.

DEPARTMENT OF STATE,

WASHINGTON, August 5, 1864.

MY LORD:

I have the honor to acknowledge the receipt of your note of yesterday, communicating to me the views of Her Majesty's Government in regard to the advantages of the existing arrangement between the United States and Great Britain limiting the naval force to be maintained upon the American lakes.

In reply I have the honor to inform your lordship that the motion upon the subject which was made in Congress, and to which reference is made in your note, did not prevail, and that there is at present no intention to abrogate the arrangement which has been so long in force. I will thank your lordship to assure Her Majesty's Government that timely notice will be given if these views should change.

I have the honor, etc.

WILLIAM H. SEWARD.

Mr. F. W. Seward to the British chargé d'affaires.

DEPARTMENT OF STATE,
Washington, September 26, 1864.

SIR: I have the honor to inform you, with a view to Her Majesty's Government being made acquainted with the fact, that owing to the recent hostile and piratical proceedings on the lakes between the United States and Her Majesty's possessions, it has been deemed necessary for the present to increase the observing force of the United States on those lakes; that the arrangement is temporary and will be discontinued so soon as circumstances permit, and that the vessels to be employed on that service are to be under instructions to respect British rights in all cases.

I have the honor, etc.,

F. W. SEWARD,
Acting Secretary.

The British chargé d'affaires to Mr. W. H. Seward.

WASHINGTON, September 28, 1864.

SIR: I have the honor to acknowledge the receipt of your note of the 26th instant, informing me that owing to recent piratical proceedings on Lake Erie it had been found necessary to increase the observing force of the United States on the American lakes lying between the United States and Her Majesty's possessions, and beg to state in reply that I shall forward a copy of that note to Her Majesty's Government.

Without wishing to prejudge the question, I must leave it to Her Majesty's Government to decide as to whether such a measure, although only temporary in its effect, can be warranted by treaty stipulations.

I would, however, simply here recall to your recollection a note of Lord Lyons, addressed to you on the 4th ultimo, which set forth the views of Her Majesty's Government when the question of abrogating the treaty limiting the naval force to be maintained upon the American lakes was brought before Congress.

I have the honor, etc.,

J. HUME BURNLEY.

Mr. W. H. Seward to the British chargé d'affaires.

DEPARTMENT OF STATE,
Washington, October 1, 1864.

SIR: With reference to the previous correspondence between this Department and Her British Majesty's legation upon the subject, I have the honor to communicate a copy of a letter of yesterday, addressed to this Department by the Secretary of the Treasury, from which it appears that it has been deemed advisable at this juncture to charter the steam propeller *Hector* for revenue-cutter purposes on the lakes. Any excess which may be occasioned, however, in the armament of vessels of the United States in this quarter over the limit fixed

by the arrangement of April, 1817, will be temporary only, and as it has been made necessary by an emergency probably not then foreseen, may not be regarded as contrary to the spirit of the stipulations of that instrument.

I have the honor, etc.,

WILLIAM H. SEWARD.

The British chargé d'affaires to Mr. William H. Seward.

WASHINGTON, October 4, 1864.

SIR: I have the honor to acknowledge receipt of your note of the 1st, relative to an increase of the American naval force in the Canadian lakes, and of its inclosures, and beg to state in reply that I have to-day forwarded copies to Her Majesty's Government.

I have the honor, etc.,

J. HUME BURNLEY.

Mr. Seward to Mr. Adams.

No. 1136.]

DEPARTMENT OF STATE,
Washington, October 24, 1864.

SIR: It is my duty to invite, through you, the serious attention of Her Majesty's Government to the instances, which unfortunately seem to be multiplying, in which the British possessions in our neighborhood, both continental and insular, have been made bases for hostile proceedings of the insurgents against this country. The motives for such proceedings have undoubtedly been, not a conviction that material damage would result directly from the hostile acts of the insurgents, but the hope that a just sense of national dignity, and self-preservation on our part, might induce us to resent the toleration of the British authorities, and ultimately, perhaps, lead that Government to take part with the insurgents as an open and declared enemy of the United States. The insufficiency of the British neutrality act and of the warnings of the Queen's proclamation to arrest the causes of complaint referred to were anticipated early in the existing struggle, and that Government was asked to apply a remedy by passing an act more stringent in its character—such as ours of the 10th of March, 1838, which was occasioned by a similar condition of affairs. This request has not been complied with, though its reasonableness and necessity have been shown by subsequent events.

The seizure by insurgents of the steamer *Chesapeake*, on the high seas, bound from New York to Portland, is familiar to you. Though the vessel was ultimately released, the perpetrators of the deed escaped punishment. Braine, one of the leaders, has since found his way to Havana, and with other conspirators has recently seized, under similar circumstances, the steam packet *Roanoke*, which plies between that place and New York, and carried her to Bermuda, but not receiving the hospitality that was expected there, the vessel was taken outside the port and burned.

On Saturday, the 17th of September last, Lieut. Col. B. H. Hill, acting assistant provost-marshal-general of Michigan, was advised by a

person from Canada that a party was to be sent from Windsor, on the Canadian side of the Detroit River, opposite Detroit, to a point within the jurisdiction of the United States, for hostile purposes.

On Sunday evening, the 18th of September, a man came on board the *Philo Parsons*, while she was lying at the dock in Detroit, and requested the clerk, Mr. Walter T. Ashley, who is part owner of the *Parsons*, to call at Sandwich, on the Canada shore, 3 miles below Detroit, to receive him and party of friends, who wished to go to Kelly's Island, about 11 miles from Sandusky, alleging that one of them was lame and could not well cross the ferry. The *Philo Parsons* sailed the next morning (Monday, the 19th of September) at 8 o'clock, with about forty passengers. The person referred to above as having engaged passage for himself and party appeared immediately afterwards, and at his request the steamer called at Sandwich, where his friends, four in number, came on board. At Malden, on the Canada side, where the steamer always stops, about 20 miles below Detroit and near the point where the Detroit River empties into the lake, about twenty more came on board. The number, not being unusual, excited no suspicion. The only baggage of the party was an old-fashioned trunk, tied with rope, and which was afterwards ascertained to contain revolvers and large hatches or hand-axes. The steamer continued on her course, and made her usual landings at North Bass, Middle Bass, and South Bass islands—the latter being better known as Put-in-Bay island. These islands are nearly north of Sandusky and about 20 miles distant. They all belong to the United States and are part of the State of Ohio. Capt. Atwood, the captain of the steamer, left her at Middle Bass Island, where his family reside. Having made these landings, the steamer went on her course to Kelly's Island, about 7 miles further on, and made her usual landing there. Here four men got on board, all apparently belonging to the same party, and it has been ascertained that one, who was seen among them after the capture of the steamer, had been several days on the island, visiting the inhabitants and pretending to be an agent for the sale of sewing machines.

Shortly after leaving Kelly's Island, about 4 o'clock in the afternoon, and while she was directly on her course for Sandusky, the *Philo Parsons* was seized by the party who had got on board at Sandwich and Malden, and was headed to the eastward for nearly an hour, when she was turned back to Middle Bass Island for fuel, the leader of the party having ascertained from the mate and engineer that there was not enough to run many hours. Soon after the *Philo Parsons* reached Middle Bass Island, and while she was taking in wood, the steamer *Island Queen*, which performs daily trips from the Bass Islands to Sandusky and back, came alongside and was immediately seized. The engineer of the *Island Queen*, without giving any provocation, was shot in the face. The ball entered his cheek and passed out near the ear. One person was cut in the head with a hatchet and bled profusely. Several other persons were knocked down, and a large number were struck with the butt ends of pistols and with hatchets, and some ten or a dozen shots were fired. The passengers on both boats were landed at Middle Bass with a part of their baggage.

After getting a supply of fuel, the *Philo Parsons* ran out into the lake, towing the *Island Queen*. At the distance of about 5 miles according to one statement and a smaller distance according to others, the *Island Queen* was scuttled by cutting her supply-pipe and was sent adrift. Before filling she drifted on a shoal, and was gotten off a few

days afterwards, having been plundered by the party who had seized her.

After the *Island Queen* had been scuttled, the *Philo Parsons* stood for Sandusky Harbor, and was turned about and steered for Malden, where she arrived between 4 and 5 o'clock on Tuesday morning, the 20th of September. A few miles above Malden a yawl boat load of plunder was sent ashore on the Canada side of the Detroit River. At Fighting Island, some 6 miles above, the crews of both steamers were landed.

The *Philo Parsons* arrived at Sandwich at about 8 o'clock the same morning, and a pianoforte belonging to her, a number of trucks, and the cabin furniture were put ashore at the dock, where a custom-house officer almost immediately appeared. She was then scuttled, by cutting her injection pipes, and cast off. She partially filled, but was taken possession of a few hours afterwards by the mate, who had come in a small steamer (the *Pearl*) from Ecuse, who had her towed to Detroit.

The facts thus set forth having been substantiated by the depositions of eye-witnesses of these occurrences, I addressed a note to J. Hume Burnley, esq., Her Britannic Majesty's chargé d'affaires, on the 13th instant, requesting, through him, that Her Majesty's Government would, upon the arrest and commitment of the parties who perpetrated these depredations, some of whom passed by the names, respectively, of Bell, Houlst Bristow, Robert Drake, Burley, and Thomas (the names of others not being ascertained), issue the necessary warrants for their delivery to Joseph Dimmick and James Henry, or to any other person duly authorized by the State of Ohio to receive the fugitives, in order that they might be brought back to the United States for trial. This request was made on the ground that they were guilty of the crimes of robbery and assault with intent to commit murder within the jurisdiction of the United States, and that, being fugitives from the justice of the United States, their extradition was provided for by the tenth article of the treaty of Washington. Mr. Burnley has since informed me that he referred the matter to Her Majesty's provincial authorities, as is usual in such cases.

The primary object in capturing these steamers was confessedly to release the insurgent officers confined on Johnson's Island. There is reason to believe that the conspiracy was organized and set in motion by prominent insurgents, who have for some time past been residing in Canada for such purposes. Indeed, this Department has proof that Mr. Jacob Thompson has acknowledged that he was commissioned and provided with funds to carry them into effect, and had interviews with conspicuous members of the gang just before the steamers were captured.

It is obvious that at the time of the informal arrangement between the two governments of April, 1817, limiting their naval force on the lakes, a condition of things like the present could scarcely have been anticipated. The object of that arrangement was to prevent either party from keeping in commission the considerable naval force which they both had employed in that quarter during the war then recently closed. If peace was expected to continue, the force was an unnecessary burden to both parties; but, on the contrary, if war should suddenly be renewed, one or the other might, in anticipation of that event, have clandestinely or otherwise so augmented its force as to insure to it a dangerous advantage. Believing that these were the views entertained at the time the arrangement was entered into, and that neither the United States nor Great Britain expected to relinquish their right to self-defense in the event of a civil war in the territories of either by

the limitation referred to, the Secretary of the Treasury, as you will see from the correspondence, a copy of which is inclosed, has chartered two propellers, one on Lake Erie and the other on Lake Ontario, for the purpose of checking and suppressing depredations on our trade and territory in that region similar to those above mentioned.

I had just prepared the foregoing statement of the transaction on Lake Erie, when information of a new and equally desperate outrage on another part the border reached this Department. A band, said to consist of 25 desperate men, clandestinely armed, crossed the frontier and proceeded in several small parties, by stage coach, to St. Albans, Vermont, in the customary way of travelers. At a concerted time they raised a scene of terror in that peaceful town, and broke into boarding houses and other buildings and carried off large amounts of treasure, said to be \$225,000, together with other valuable property. As soon as the people recovered from their surprise, they arose and hotly pursued the felons, who sought safety by returning on stolen horses across the frontier into Canada. The Canadian municipal agents seem to have coöperated with the pursuers from Vermont with alacrity and diligence. Twelve of the robbers were arrested, stripped of their plunder, and taken into custody by the Canadian authorities. It is also understood that a considerable part of the recovered property was promptly restored to its owners. Here the imperfect accounts which I have received of this transaction end. I have requested J. Hume Burnley, esq., Her Majesty's charge d'affaires here, that the felons may be detained, until, after having obtained the exact information which is essential, I shall have addressed to the British Government a demand for the surrender of the offenders, in conformity with the provisions for extradition contained in the Ashburton treaty. The subject has been discussed in a friendly spirit between myself and Mr. Burnley, who has received telegraphic advices from Lord Lyons, who yet remains in New York. I give you a copy of a note which I addressed to Mr. Burnley on the 21st instant, and also a copy of a note I afterwards received from him in answer to my verbal request, that Lord Monck, the governor-general, should be advised to detain the offenders for extradition. I wish you to bring this transaction also to the notice of Earl Russell, and say to him that, taken in connection with events of the same character which have occurred on the Canadian frontier, it is regarded here as deserving prompt and decisive proceedings on the part of Her Majesty's Government, in order to prevent the danger of ultimate conflict upon the Canadian borders. It is a pleasant circumstance that, in making this communication, we are not only able but are obliged to acknowledge that the Canadian executive authority has, in this instance, thus far coöperated with this Government in faithful and diligent efforts to bring the disturbers of the public peace to due account. It is, however, impossible to resist the conviction that peace can not be reliably maintained upon the border unless more effective measures shall be adopted to secure that end than those that have hitherto been used by both governments. We know well, although we have not judicial evidence, that all the movements of this character are set on foot by Jacob Thompson and other disloyal American citizens who are temporarily domiciled in Canada, and furnished with funds there for these iniquitous purposes through the banking institutions of Canada. It is now my duty to instruct you to give notice to Earl Russell, in conformity with the treaty reservation of that right, that, at the expiration of six months after you shall have made this communication, the United

States will deem themselves at liberty to increase the naval armament upon the lakes, if, in their judgment, the condition of affairs in that quarter shall require it. And you will be careful to advise us of the day on which this notice is given. You will assure the earl, however, that this proceeding is adopted only as a necessary measure of national defense, and not only with no purpose of hostility, but on the other hand, with a desire no less earnest than heretofore to preserve the most friendly relations with Great Britain. Moreover, this Government will in every case direct its best efforts to prevent invasion of British territory, whether by way of popular retaliation or otherwise. It is not for us to indicate the means Her Majesty's Government should adopt to maintain neutrality on their side of the border. You will again suggest to Her Majesty's Government that, in our opinion, a policy similar to that which was inaugurated by our enactment before mentioned might be followed with advantage by Great Britain in the American provinces during our present civil war. I should fail, however, to express a sincere conviction of this Government if I should not repeat now what I have heretofore so often had occasion to say, that, practically, the policy of neutrality which Her Majesty has proclaimed has failed as well in the British home ports as in the British colonies, and especially in the latter, and that it must continue to fail more conspicuously every day, so long as asylum is allowed there to active enemies of the United States, and they are in any way able, by evasion or otherwise, to use the British ports and British borders as a base for felonious depredations against the citizens of the United States. Nor are we able to conceive of any remedy adequate to the present exigency but the recognition by Her Majesty's Government of the just and exclusive sovereignty of the United States in all the waters and territories legally subject to the jurisdiction of this Government. I use the word exigency with a consciousness of its just effects. The welfare and prosperity of the British provinces on our borders are as sincerely desired by us as they can be by the British Government. In a practical sense these provinces are sources of wealth and influence for the United States, although they are subject to a foreign jurisdiction. We have proved that this is a sincere conviction on our part by entering into relations of reciprocal free trade with the British provinces almost as intimate as the relations of free trade which, under our Constitution, prevail between the several States of the American Union. Thus far we have been content with these relations, and probably we should remain content whether the colonies adhere to their ties with Great Britain, or, with her consent, should assume the responsibilities of self-government, provided always that our friendship is reciprocated, while peace and harmony on the border are essential to the very existence of such friendship. On the other hand, we have a right to expect that the dwellers within these provinces will be content to fulfill toward us the obligations of good neighborhood, as we are expected to fulfill the same obligations on our part. Even if this Government could be satisfied with less than what I have thus indicated, it must, nevertheless, be admitted that, from the very force of circumstances, peace could hardly be expected to prevail on a border which should afford to the communities which it divides no adequate protection against mutual aggression and reprisal.

Political agitation is as frequent in the British American provinces as it is here. It is not easy to foresee how soon revolutionary movements may appear there. Every provocation now given to Americans

will be likely to be claimed as a precedent in that case for intrusion from this side of the lakes. Would it not be wise to establish a proper system of repression now, which would prove a rock of safety for both countries hereafter.

I am, sir, your obedient servant,

CHARLES FRANCIS ADAMS, Esq.

WILLIAM H. SEWARD.

Mr. Fessenden to Mr. Seward.

TREASURY DEPARTMENT,
September 23, 1864.

SIR: I have the honor to inform you that a steam propeller has been put in commission as a revenue vessel to cruise on the lakes.

I deem it proper to acquaint you with this fact, in view of any treaty which may exist on this subject.

I am, very respectfully,

W. P. FESSENDEN,
Secretary of the Treasury.

HON. WILLIAM H. SEWARD,
Secretary of State

Mr. Seward to Mr. Fessenden.

DEPARTMENT OF STATE,
Washington, September 30, 1864.

SIR: I inclose for your perusal a copy of a telegram of the 23d instant from General Hitchcock, at Sandusky, to the Secretary of War, which I will thank you to cause to be returned to this Department.

I have the honor to be, your obedient servant,

WILLIAM H. SEWARD.

HON. WILLIAM P. FESSENDEN,
Secretary of the Treasury.

Major-General Hitchcock to Mr. Stanton.

[Telegram.]

SANDUSKY, OHIO,
September 23, 1864.

SIR: I take upon myself to express an opinion that the safety of our commerce on the lakes, and the security of the cities along the lake shores, makes it of the highest importance, if not an indispensable necessity, that the Government should have several armed vessels fully manned to prevent the rebels, who find security in Canada, from seizing steamers engaged in commerce and converting them into war-vessels, with a few of which they may, if not prevented, do us incalculable mischief. Ex-Secretary Thompson is employed in Canada in setting on foot expeditions of the most dangerous character.

The recent seizure of two steamers in this vicinity has, indeed, terminated disastrously for the projectors of the horrible scheme; but the demonstration actually made is a sufficient warning to induce our Government to take immediate measures to guard against a repetition of it. It will be but an act of self-defense, and from the disclosures made by Coole, now in arrest at Johnson's Island, earnestly recommend that no time be lost in putting afloat armed vessels upon Lake Ontario, and speedily upon the upper lakes also. I suppose we are engaged in war, rendering this step justifiable under the treaty of eighteen fifteen (1815), but it is my duty to speak only the justifying necessity of the case.

C. A. HITCHCOCK,
Major-General, Volunteers.

HON. EDWIN M. STANTON,
Secretary of War.

*Mr. Fessenden to Mr. Seward.*TREASURY DEPARTMENT,
September 30, 1864.

SIR: I have the honor to acknowledge the receipt of your letter of this date, transmitting telegram from General Hitchcock, and to state that this Department has this day chartered the steam propeller Hector (at Oswego, New York), for revenue-cutter purposes. This vessel, together with the Winslow, chartered at Buffalo a few days since, will be fitted for service with all possible despatch.

The telegram is herewith returned.

I am, very respectfully,

W. P. FESSENDEN,
*Secretary of the Treasury.*Hon. WILLIAM H. SEWARD,
*Secretary of State.**Mr. Thurston to Mr. Seward.*

No. 67.]

UNITED STATES CONSULATE GENERAL,
Montreal, October 20, 1864.

SIR: Yesterday afternoon, just after I had left the consulate, about one-half past six o'clock, the evening paper was shown me, and my notice directed to an article announcing that a party of twenty or thirty men had attacked St. Albans, Vermont; had robbed the banks of one or two hundred thousand dollars; had also stolen sufficient number of horses to mount them, and had escaped after killing several citizens and wounding others. I could not credit the report, and immediately telegraphed to G. Merrill, esq., superintendent of the Vermont Central Railroad, who returned reply herewith enclosed. Judge Aldis, of the supreme court of Vermont, the gentleman mentioned in the telegram, arrived here at 11 o'clock last night. Directly he arrived we proceeded to the house of the chief of police, and made request that he would send a body of his police force to the frontiers, and arrest all suspicious persons passing into Canada. The chief declining to act without authority of his superior, Judge Coursol, of the quarter sessions of this city, and whose jurisdiction embraces also the district through which the raiders must pass to reach Montreal, invited us to visit the judge with him to obtain his consent. Accordingly we proceeded to the residence of Judge Coursol, called him from his bed, and laid the object of our visit before him. After some consultation Judge Coursol decided to proceed to St. John's, where he had a sergeant of special frontier police, and several men, taking with him several men from this city also, and to render all the assistance in his power to arrest the raiders if they attempted to pass into Canada on the cars, either at St. John's or beyond it. He directed the chief of police to accompany him, and assured us that anything the Canadian authorities could do they would, and most cheerfully and promptly render every aid possible to arrest the parties concerned in this daring attack to rob and murder the peaceful citizens of Vermont. This morning, at a quarter before six, they took the cars to St. John's. Judge Coursol informed me that he had a force of thirty special police distributed along the frontier, on the thoroughfares and other places, to arrest deserters from the regiments stationed at Montreal and Quebec; that, should it be necessary, he would call in all this force, and detail as many men from the police force of Montreal, if it were required. While writing this dispatch a telegram was brought me, directed to Judge Coursol, announcing that six of the robbers of the banks of St. Albans were arrested at Stanbridge; and a few minutes after another telegram from Judge Aldis, who returned this morning with the other parties, stating that two men had been caught, all of the eight having large amounts of money on their persons. Among the number arrested was the leader of this raid. The details of this outrage, written by Judge Aldis, who was in St. Albans when the raiders made the attack, I have the honor herewith to enclose, together with the telegram received. The promptness with which Judge Coursol and the chief of the police have responded to our request for assistance, the kindness and courtesy with which they have received us, and the efficient services rendered show the determination of the Canadian Government and its officials to arrest all offenders under the treaty against the laws of the United States and the cordial good feeling which they entertain towards our Government. I beg to assure the Department that everything has been done by the officers of this consulate to render all possible assistance to the citizens of Vermont.

With great respect, I am, sir, your obedient servant,

D. THURSTON,
*United States Consul.*Hon. WILLIAM H. SEWARD,
Secretary of State, Washington.

S. Ex. 1—6

During the past two or three days a number of persons, in all about thirty, came to St. Albans by twos and threes, in the different trains, and stopped at the hotels. They were dressed like ordinary travellers, and attracted no attention. To-day (October 19), at about 3 p. m., and at the same moment, parties of five each entered the three banks, and armed with revolvers, which they presented at the heads of the cashiers or tellers who were in, threatened to shoot them if they resisted or made any noise, and demanded the money. Resistance was out of the question, for in one bank only the cashier was in, in another one teller, and in the third two tellers only. They robbed the banks of what money they could find—the vaults and safes being open—and took an amount in all perhaps \$150,000 or \$200,000. While these persons were robbing the banks their confederates at the same time went to the hotels and livery stables and seized horses in order therewith to escape to Canada. The whole matter was transacted within less than an hour. Of course in seizing the horses they met with resistance, for this had to be done openly, and they fired a half a dozen shots each at Mr. Fuller, the livery man, and at Mr. Field, the keeper of the American Hotel. While stealing the horses, they also fired at Mr. Morrison, who was walking along peaceably on the sidewalk on the opposite side of the street, and wounded him in the groin, it is feared fatally. They also shot Mr. Huntington, wounding him in the hip, and slightly wounded another. As soon as they had got together horses enough they left for the north, taking the road by way of Sheldon (where it is supposed they intended to rob the Missisquoi Bank), and thence probably by Franklin to Pigeon Hill or to Frelighsburg, in Canada. They all came from Canada, so far as their arrivals can be traced. On the plank road, about a mile north of St. Albans, they shot a young girl by the roadside. They threatened to burn the depot and other buildings, but probably felt that delays were dangerous.

There was scarcely a gun or pistol in the village; but in about half an hour after they left 12 or 15 of our citizens, who succeeded in getting guns, went in pursuit of them. When about halfway to Sheldon they were heard of as being within about a mile of the robbers. It is to be hoped they were overtaken there.

Some of the leaders appeared to be disposed to commit no greater outrages than robbing the banks; others seemed to be desperadoes, wretches ready for any crime, and bent on wanton murder.

The banks have offered a reward of \$10,000.

[Vermont and Boston Telegraph Company—Office 38 St. François Xavier street].

MONTREAL, *October 19, 1864.*

[By telegraph from St. Albans, Vt.]

Judge Aldis left here on express train to-night for Montreal. The raiders, some twenty or twenty-five men, have collected here within a few days. Had evidently laid their plans; simultaneously entered and robbed the three banks of from \$100,000 to \$200,000; seized horses and saddles enough to mount the party, shooting all persons who resisted, and started for Sheldon, probably to rob the bank there, and then escape to Canada. They were pursued by a party of citizens on horseback, armed.

G. MERRILL,
Superintendent.

D. THURSTON,
United States Vice-Consul General.

[Vermont and Boston Telegraph Company—Office 38 St. François Xavier street.]

MONTREAL, *October 20, 1864.*

[By telegraph from St. Albans.]

TO DAVID THURSTON, *Vice-Consul:*

We have arrested two of the robbers on this side of the line, and have them in jail, with considerable money on their persons. Six more have been taken at Stanbridge, or Frelighsburg, among them their leader, and about \$50,000 of the money. The whole country both sides of the line is alive with zeal to arrest them. Our governor, too, much pleased to hear the Canadian authorities so prompt.

A. O. ALDIS.

Mr. Burnley to Mr. Seward.

WASHINGTON, *December 17, 1864.*

SIR: I have the honor to communicate to you, under the instructions which I have received from Her Majesty's principal secretary of state for foreign affairs, the enclosed copy of a despatch addressed to Lord Lyons relative to the intention of the United States Government, in conformity with the treaty reservation right, to increase their naval armament upon the North American lakes.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

J. HUME BURNLEY.

Hon. WILLIAM H. SEWARD, etc.

Earl Russell to Lord Lyons.

FOREIGN OFFICE, *November 26, 1864.*

MY LORD: Your lordship, in your despatch of the 28th ultimo, has referred to the intention of the United States Government to give notice to Her Majesty's Government that, in conformity with the treaty reservation of the right to give such notice, the United States Government will deem themselves at liberty, at the expiration of six months after the communication shall have been made, to increase their naval armament upon the North American lakes, if in their judgment the condition of affairs should require it; and you have enclosed a copy of a despatch from Mr. Seward to Mr. Adams, which, after referring to the case of the Chesapeake, and after relating various acts of aggression from Canada, namely, the seizure and destruction of the Philo Parsons and Island Queen on the lakes, and the attack upon the town of St. Albans, in Vermont, by a party of twenty-five men, issuing from the British territory, proceeds to lay down the following important propositions:

1. "The insufficiency of the British neutrality act, and of the warnings of the Queen's proclamation to arrest the causes of the complaint referred to, were anticipated early in the existing struggle, and the (British) Government was asked to apply a remedy by passing an act more stringent in its character, such as ours of the 10th of March, 1838, which was occasioned by a similar condition of affairs." This request has not been complied with, though its reasonableness and necessity have been shown by subsequent acts.

2. "It is now my duty to instruct you to give notice to Earl Russell, in conformity with the treaty reservation of that right, that at the expiration of six months after you shall have made this communication the United States will deem themselves at liberty to increase the naval armaments upon the lakes, if in their judgment the condition of affairs in that quarter shall then require it."

3. After again recurring to the measure of 1838, Mr. Seward says: "I should fail, however, to express a sincere conviction of this Government if I should not repeat now what I have heretofore so often had occasion to say, that practically the policy of neutrality which Her Majesty has proclaimed has failed as well in the British home ports as in the British colonies, and especially in the latter, and that it must continue to fail more conspicuously every day so long as asylum is allowed there to active agents of the enemies of the United States, and they are in any way able, by evasion or otherwise, to use the British ports and British borders as a base for felonious depredations against the citizens of the United States; nor are we able to conceive of any remedy adequate to the present exigency but the recognition by Her Majesty's Government of the first and exclusive sovereignty of the United States in all the waters and territories legally subject to the jurisdiction of this Government."

On the 23d instant I received from Mr. Adams the note which I enclose, and the several documents annexed to it; but as they are the same in substance as the communication you have sent me, I think it will be more convenient to deal with the formal and authoritative despatch of the Secretary of State.

1. The reference to the act of March 10, 1838 (of which I enclose a copy), will not have any application with respect to vessels leaving the shores of the United Kingdom. The difficulty in regard to vessels fitted out or equipped in our home ports has always consisted in proving that the vessel was "provided or prepared for any military expedition or enterprise against the territory or dominions of any foreign prince or state with whom Her Majesty is at peace," and a similar difficulty would

be found in enacting a law exactly copied from the United States act of March 10, 1838. With regard to "territories coterminous with the United States," it might, indeed, more easily be proved, with respect to any military bodies assembled near the border, that they were intended to cross the frontier in hostility to a state with whom Her Majesty is at peace. On this part of the question I have to desire you to assure Mr. Seward that the subject is undergoing the most searching investigation by the law officers of the Crown, with a view to take the most effectual measures to prevent incursions from the bordering British provinces into the territory of the United States. In the mean time I have to observe that in the early part of the war, while active efforts were made to fit out, in British ports, ships intended to be completed in the waters of other neutral States, as ships-of-war, and thence to be employed as cruisers against the United States, but few, if any attempts were made to disturb the frontier of Canada by military or naval expeditions. Hence the act of Congress of March, 1838, was not considered to be applicable to the existing state of affairs. I may also observe, that during the late insurrection in Poland, although the governments of Austria and Prussia were, from a regard to their own interests, unfavorable to that insurrection, and although their means of repression were much more available and much more energetic than ours ever can be, yet insurgent expeditions from Galicia and from the Duchy of Posen were of very frequent occurrence. The Governor of Canada, it is admitted by the United States Government, has done all that he could lawfully do, and if his efforts should fail and other measures of repression consistent with the nature of our Government shall be found requisite, Her Majesty's Government will not hesitate to propose them.

2. It is perfectly competent to the United States to give notice that at the end of six months that Government will be at liberty to increase their naval force on the lakes. It is certainly true that while both nations are disarmed on the lakes, marauders or depredators may destroy or capture unarmed vessels belonging to either party. Her Majesty will, of course, be at liberty also to increase her naval force on the lakes at the expiration of the six months after notice, if she shall think fit so to do. But it is to be hoped that when peace is restored the former agreement, which was formed upon just and wise considerations, may be renewed, as one that must be advantageous to both parties.

3. The next proposition of the Secretary of State declares the neutrality proclaimed by Her Majesty to have failed, as well in the British home ports as in the colonies; that it must continue to fail so long as asylum is allowed there to active agents of the enemies of the United States, and so long as those persons are in any way able, by evasion or otherwise, to use the British ports and British borders as a base for felonious depredations; and the Secretary of State adds, that the only remedy which the Government of the United States is able to conceive, is the "recognition by Her Majesty's Government of the first and exclusive sovereignty of the United States in all the waters and territories legally subject to the jurisdiction of this Government."

It appears to Her Majesty's Government that this proposal amounts to nothing less than a demand that Great Britain should cease to acknowledge the belligerent character of the Southern States, and treat the Southern citizens as felons and pirates. In order to consider this matter fully, I find it necessary to recur to the events of the last three years.

President Lincoln, immediately after his accession to power in 1861, found himself face to face with a most formidable insurrection. In the month of April, 1861, he ordered a levy of seventy-five thousand men to meet the danger. Finding this number insufficient, armies of three, four, and even seven hundred thousand men have been raised, embodied, marched, exposed to battles and sieges, worn by fight and fever, exhausted, consumed, and replenished, in this mighty contest. With similar purposes, the President, in the same month of April, 1861, proclaimed the blockade of the coast of seven States, and the blockade of two other States was added immediately afterwards. A navy was suddenly created, supposed to be adequate to the task of blockading three thousand miles of coast.

Her Majesty's Government could not, any more than the other powers of Europe, fail to recognize in the vast extent of the territories involved in hostilities, and in the fierce nature of the contest, a civil war of the most extraordinary character.

In proclaiming that both parties in this vast war were to be treated as belligerents, and in admitting the validity of a blockade of three thousand miles of coast, Her Majesty's Government acknowledged an existing fact, and recognized the international law applicable to that fact. But Her Majesty's Government could not disguise from themselves the difficulties which would beset, under any state of law, the task of preventing undue aid being given by individuals among the Queen's subjects to one or the other of the belligerents. The identity of language, the increasing intercourse of trade, the immense extent of ship-building carried on in this country, and the ingenuity of speculators in defeating laws and proclamations, made it impossible that there

should not be many escapes from the vigilance of the Government, and many successful stratagems to disguise hostile proceedings.

Still Her Majesty's Government counted on the fair consideration by the Government of the United States of what was possible on their estimate of the honest intention of the British Executive, and their knowledge of the latitude, both of opinion and of action, prevailing among a people nurtured like that of the United States in free institutions.

Her Majesty's Government also thought that the United States must be aware that the law of nations and the circumstances of the war gave an immense advantage to the Federalists against the Confederates in obtaining warlike supplies. In confirmation of this remark, it may be reckoned that besides very many batteries of artillery, five hundred thousand rifles have been manufactured in this country and conveyed to the shores of the Northern States, to be used by the Federal troops in the war. It may safely be said, also, that many thousands of the Queen's subjects have held those rifles against the breasts of men whom Her Majesty does not regard as her enemies.

The supplies sent to the Confederates are, on the other hand, very commonly intercepted and captured on the sea by Federal ships-of-war. Her Majesty's Government, however, have put in force impartially the provisions of the law, and have prosecuted those persons, who, in apparent violation of that law, have fitted out vessels in our ports with the purpose, as it was believed, in aiding in hostilities against the United States, or who have been engaged in enlisting seaman or recruits in the service of either belligerent; and Her Majesty's Government have succeeded in preventing the departure from the Clyde and the Mersey of several ships intended for the service of the Confederates.

Such being the state of affairs, Her Majesty's Government are not prepared either to deny to the Southern States belligerent rights, or to propose to Parliament to make the laws of the United Kingdom generally more stringent.

To allow to the United States the belligerent rights of blockade and of search and detention to the widest extent, and to refuse them altogether to the other party in the civil war, who have possession of an extensive territory, who have all the forms of a regular government, framed on the mould of that of the United States, and who are wielding large regular armies, would, Her Majesty's Government presume to think, be as contrary to the practice of civilized nations as it would be to the rules of justice and of international law.

Neither can Her Majesty's Government refuse an asylum to persons landing on our shores and conforming to our laws, merely because such persons may be or may have been in hostility with a government or nation with whom Her Majesty is at peace.

The Congress and President of the United States have thought themselves compelled, by the necessity of internal war, to restrict and curtail the liberties of the people of those States. Her Majesty's government do not presume to judge of that necessity, but they cannot find in the hostilities which prevail on the continent of North America any justification for so altering the laws of the United Kingdom as to deprive the citizens of the Southern States of America of that asylum which Great Britain has always afforded to men of all nations and of all political opinions.

But while the Government of the United States complain that Her Majesty's policy of neutrality has failed, Her Majesty's Government have had frequent occasion to complain that the United States have carried beyond all acknowledged limits the rights of belligerents. The crews of vessels seized as blockade-runners, who, by the law of nations, are only subject to detention till the case of the vessel in which they were found has been heard in a prize court, have been subjected to confinement for indefinite periods of time as prisoners of war, and Her Majesty's Government have more than once felt it to be their duty to express their opinion that such proceedings are a plain and clear violation of neutral rights.

The United States Government have also compelled British merchants trading between New York and a neutral port to give bonds for the conduct to be observed by them in that port, and for the direction of their future voyages, and this is against the plain tenor of the treaties subsisting between Great Britain and the United States.

The Government of the United States have likewise permitted their subordinates and recruiting agents to enlist British subjects who had been drugged, and had not, when so enlisted, recovered from the effects of the treatment to which they had been subjected.

If Her Majesty's Government have not resisted more strenuously than they have hitherto done those illegal and unfriendly proceedings, the cause is to be found in their belief that the passion and excitement of the contest have, for a time, obscured the sense of justice and respect for law, which usually distinguish the United States, and that with the close of the contest calm consideration will return, and a just view of these transactions will be taken.

The welfare and prosperity of the United States are earnestly desired by the Government of Her Majesty, and the necessity of securing peace and harmony on the borders between the British and the United States territory is fully acknowledged. With this disposition on both sides, Her Majesty's Government cannot doubt that adequate means of repression will be found, and that signal failure will attend any wicked attempts which may be made to involve the two nations in the calamities of war.

It is a pleasure to me to conclude this despatch by noticing the handsome terms in which the Secretary of State declares himself not only able but obliged to acknowledge that the Canadian authority has, in the last-mentioned instance "thus far coöperated with this Government in faithful and diligent efforts to bring the disturbers of public peace to justice." Her Majesty's Government trust such faithful coöperation in the performance of friendly offices may long on both sides continue.

I have to instruct you to give a copy of this despatch to the Secretary of State.

I am, etc.

RUSSELL.

LORD LYONS, G. C. B., etc.

President Lincoln to the Senate.

TO THE SENATE OF THE UNITED STATES:

In compliance with the resolution of the Senate of the 15th ultimo, requesting information concerning an arrangement limiting the naval armament on the lakes, I transmit a report of this date from the Secretary of State, to whom the resolution was referred.

ABRAHAM LINCOLN.

WASHINGTON, *January 9, 1865.*

DEPARTMENT OF STATE,
Washington, January 9, 1865.

The Secretary of State, to whom has been referred the resolution of the Senate of the 15th ultimo, requesting the President, if not inconsistent with the public interest, to furnish to that body any information on the files of the Department of State concerning the paper published in the volume of treaties, and entitled "arrangement between the United States and Great Britain between Richard Rush, esq., acting as Secretary of State, and the right honorable Charles Bagot, his Britannic Majesty's envoy extraordinary, relating to the naval force to maintained upon the American lakes," has the honor to report that the correspondence between Messrs. Monroe and Rush and Mr. Bagot was communicated to the Senate by President Monroe on the 6th of April, 1818, a copy of whose message on the subject with the accompanying papers is to be found in the series of American State papers published by Messrs. Gales & Seaton under the authority of Congress, Class I, Foreign Relations, volume IV, pages 202 to 207 inclusive.

From these papers it will be seen that the limitation of the force to be maintained was sought by this Government. Although the convention seems somewhat informal, as published in the Revised Statutes, yet upon consulting the original papers it appears to have been duly approved by the Senate, ratified by the President, and proclaimed as law.

Though the document referred to does not contain all the correspondence on the subject, that which was reserved does not appear to be material to a proper understanding of it.

Respectively submitted,

W. H. SEWARD.

TO THE PRESIDENT.

Mr. Seward to Mr. Burnley.

DEPARTMENT OF STATE,
Washington, January 10, 1865.

SIR: I have the honor to acknowledge the receipt of your note of the 17th ultimo, communicating to me, under the instruction of Her Britannic Majesty's Government, a copy of a despatch of the 26th of November last, addressed by Earl Russell to Lord Lyons, in regard to the notice given by this Government for the termination of the existing conventional arrangement between Great Britain and the United States, limiting the naval force of the respective governments on the lakes, and to the reasons which prompted that notice.

The views and suggestions which Earl Russell has thus presented to this Government will receive an attentive consideration.

I have the honor to be, with the highest regard, sir, your obedient servant,

WILLIAM H. SEWARD.

J. HUME BURNLEY, Esq., &c., &c., &c.

Mr. Sumner to Mr. Seward.

SENATE CHAMBER, January 10, 1865.

SIR: I am directed by the Committee on Foreign Relations to ask you for a copy of the notice which has been given to terminate the treaty of 1817 with Great Britain as to our armament upon the lakes. This has become necessary to determine the character of the legislation which may be expedient.

I have the honor to be, sir, your obedient servant,

CHARLES SUMNER.

The SECRETARY OF STATE,
Washington, D. C.

Mr. Seward to Mr. Sumner.

DEPARTMENT OF STATE,
Washington, January 12, 1865.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, asking for a copy of the notice which has been given to terminate the treaty of 1817 with Great Britain as to our armament on the lakes, and, in compliance with your request, to enclose a copy of a despatch of the 25th of November, 1864, No. 821, from Charles Francis Adams, esquire, our minister at London, and its accompaniment. As the substance of the instruction in obedience to which Mr. Adams gave the notice is embodied in his note to Earl Russell, and as that instruction is included in the diplomatic correspondence accompanying the President's last annual message, which is now in the hands of the Public Printer, it is not considered necessary now to furnish a copy thereof.

I have the honor to be, sir, your obedient servant,

WILLIAM H. SEWARD.

Hon. CHARLES SUMNER,
Chairman of the Committee on Foreign Relations, Senate.

Mr. Seward to Mr. Adams.

No. 1289.]

DEPARTMENT OF STATE,
Washington, March 8, 1865.

SIR: The notice which has been given by this Government for the termination of the convention of April, 1817, limiting the naval force on the lakes, was indispensable to enable us technically with honor to protect ourselves from insurgent incursion from Canadian territory. As it is hoped and believed that, under existing circumstances, no further incursions of that character may be apprehended, you may say to Lord Russell that we are quite willing that the convention should remain practically in force; that this Government has not constructed or commenced building any additional war vessels on the lakes or added to the armament of the single one which was previously its property; and that no such vessels will in future be built or armed by us in that quarter. It is hoped and expected, however, that Her Majesty's Government, on its part, so long as this determination shall be observed in good faith by that of the United States, will neither construct nor arm nor introduce armed vessels in excess of the force stipulated for by the convention referred to.

I am, sir, etc.,

WILLIAM H. SEWARD.

Sir F. Bruce to Mr. Hunter.

WASHINGTON, *June 15, 1865.*

SIR: You will doubtless recollect that in November last formal notice was given to Her Majesty's Government by the American minister in London that at the expiration of six months the Government of the United States would deem themselves at liberty to increase, if they saw fit, their naval armament on the lakes.

In March, however, Mr. Adams, in compliance with instructions dated March 8, informed Her Majesty's Government that the Government of the United States were quite willing that the agreement of 1817, in regard to armament on the lakes, should remain practically in force; that the United States had not constructed any additional war vessels on the lakes, and that no such vessel would be built or armed by them in that quarter; and that they hoped the same course would be pursued by the British Government.

It may admit of a doubt whether the notice of the abrogation of the agreement has been rendered inoperative by the communication thus made through the American minister, and, as it is essential that no misapprehension should exist on so important a point, I am instructed to ascertain whether the dispatch to Mr. Adams of the 8th of March was intended as a formal withdrawal of the notice given by the American minister to Earl Russell on November the 23d, or whether, as the period of six months from the date of that notice has now elapsed, the agreement of 1817 is virtually at an end, and the abstinence of either party from increasing its force on the lakes, without further notice, rests merely on the good pleasure of each, unfettered by any diplomatic engagement.

Her Majesty's Government consider that, in the latter case, a very inconvenient state of things would exist; and I am directed to

it appears to Her Majesty's Government that the best course would be that the notice of November 23 should be formally withdrawn, whereby the agreement of 1817 would remain unimpaired and would continue binding on both parties until six months after fresh notice by either of them of its abrogation.

I have the honor to be, with high consideration, sir, your most obedient, humble servant,

FREDERICK W. A. BRUCE.

HON. WILLIAM HUNTER.

Mr. Seward to Sir F. Bruce.

DEPARTMENT OF STATE,
Washington, June 16, 1865.

SIR: I have the honor to acknowledge the receipt of your note of yesterday, relative to the notice given by Mr. Adams to Earl Russell in November, 1864, and also having reference to a subsequent note of the 8th of March, which Mr. Adams addressed to his lordship, touching the increase of naval armaments on the lakes. In reply I have the honor to inform you that the instruction to the United States minister at London, upon which his note of the 8th of March, referred to, was based, was intended as a withdrawal of the previous notice within the time allowed, and that it is so held by this Government.

I have the honor to be, with high consideration, sir, your obedient servant,

WILLIAM H. SEWARD.

HON. SIR FREDERICK W. A. BRUCE, etc.

